Files

Ordered no 43 7/14/37

DEPARTMENT OF AGRICULTURE
WASHINGTON

July 14, 1937.

MEMORANDUM NO. 726

Departmental Board of Survey

In accordance with Paragraph 4421 of the Regulations of the Department the Chief, Division of Purchase, Sales and Traffic is designated as a member and chairman of the Departmental Board of Survey for the term ending June 30, 1940.

Harry L. Brown
Acting Secretary.

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C.

DIVISION OF OPERATION

July 10, 1936.

MEMORANDUM NO. 699

Departmental Board of Survey

In accordance with Paragraph 4421 of the revised Regulations of the Department, the following officials are appointed, effective July 1, 1936, a Departmental Board of Survey, whose terms shall run as indicated:

A. McC. Ashley, Chairman, until June 30, 1937,
Joseph Haley, until June 30, 1939,
S. A. Snyder, until June 30, 1938.

Under the regulation cited above, this Board has the following functions:

1. To determine the disposition of all unserviceable or surplus property (other than real property) or materials in the Department at Washington, D. C.;

2. To determine, after communication with the Procurement Division of the Treasury Department, the disposition of all surplus serviceable property or materials at field stations;

3. To determine the disposition of all unserviceable property or materials at field stations having an estimated value in excess of $500.

Insofar as unserviceable or surplus property and materials in Washington, D. C. are concerned, this Board will receive from chiefs of bureaus from time to time lists of property or materials in Washington which are unserviceable or surplus, inspect the same, determine disposition after communication with the Procurement Division, and see that such disposition is made of such property or materials.

The procedure to be followed in determining disposition of property in Washington will be, after inspection, to have such property listed, tagged, and exhibited after notification to all bureau property officers and then transfer without charge to bureaus or offices such articles as may be desired, taking a receipt and attaching it to the turn-in papers.

Articles not transferred to bureaus or offices will be held in stock for a reasonable time and, if not needed by the Department, disposed of through transfer to the Procurement Division of the Treasury Department.

Insofar as surplus serviceable property and materials at field stations are concerned, this Board will receive from field boards of survey, through chiefs of bureaus, recommendations concerning disposition, communicate with other bureaus, and if such property or materials are not required by them communicate with the Procurement Division. If no other Federal agency requires such property or materials, sale or destruction of them will be authorized.

Insofar as unserviceable property or materials in the field having an estimated value in excess of $500 are concerned, this Board will receive from boards of survey at field stations, through the chief of bureau, recommendations regarding such property or materials, make such inspection either personally or through deputies, as may be considered necessary, and determine disposition of it.

The chairman is authorized to designate an employee of the Department to serve as secretary without additional compensation.

R G Tugwell

Acting Secretary.

Chiefs of Bureaus

UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

WASHINGTON

November 2, 1939.

MEMORANDUM NO. 726, Supplement No. 1

Departmental Board of Survey

Pursuant to the provisions of Paragraph 4421 of the Regulations of the Department, the following officials are appointed members of the Departmental Board of Survey, whose terms shall run as indicated:

M. A. Miller — Until June 30, 1941.
Vice S. A. Snyder

John M. Cook — Until June 30, 1942.
Vice Joseph Haley

As provided by Memorandum No. 726, dated July 14, 1937, the Chief, Division of Purchase, Sales, and Traffic is a member and chairman of the Board for the term ending June 30, 1940.

H A Wallace

Secretary.

24 Q Nelson

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF BUDGET AND FINANCE
WASHINGTON, D. C.

DIVISION OF PURCHASE, SALES, AND TRAFFIC

September 27, 1939.

MEMORANDUM FOR MR. H. A. NELSON,
Assistant Director of Finance,
Office of Budget and Finance

Dear Mr. Nelson:

At the present time there are two vacancies on the Departmental Board of Survey, as set up by Secretary's Memorandum No. 699. For purposes of restoring the Board membership, there is attached hereto draft of a suggested Secretary's memorandum, designating Mr. Miller of the Central Supply Section and Mr. Cook of the Office of Plant and Operations as members for the terms indicated therein.

Mr. Thatcher nominated Mr. Cook, and I am suggesting Mr. Miller.

Very truly yours,

S. A. Snyder

S. A. SNYDER,
Chief of Division.

Enclosure

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF BUDGET AND FINANCE
WASHINGTON, D. C.

September 27, 1950.

MEMORANDUM FOR MR. E. A. JACKSON,
Assistant Director of Finance,
Office of Budget and Finance.

Dear Mr. Jackson:

At the present time there are two vacancies on the Departmental Board of Survey, as set up by Secretary's Memorandum No. 638. For purposes of reactivating the Board membership, there is attached hereto draft of a suggested Secretary's memorandum, designating Mr. Miller of the Central Supply Section and Mr. Cook of the Office of Plant and Operations as members for the terms indicated therein.

Mr. Thatcher nominated Mr. Cook, and I am suggesting Mr. Miller.

Very truly yours,

S. A. SKYCH,
Chief of Divisions.

Enclosure

UNITED STATES DEPARTMENT OF AGRICULTURE
Office of the Secretary
Washington, D.C.

September 27, 1939.

MEMORANDUM NO. _____

Departmental Board of Survey

Pursuant to the provisions of Paragraph 4421 of the Regulations of the Department, the following officials are appointed members of the Departmental Board of Survey, whose terms shall run as indicated:

M. A. Miller Vice S. A. Snyder	Until June 30, 1941.
John M. Cook Vice Joseph Haley	Until June 30, 1942.

As provided by Memorandum No. 726, dated July 14, 1937, the Chief, Division of Purchase, Sales, and Traffic is a member and chairman of the Board for the term ending June 30, 1940.

Secretary.

Authorization

Files

Ordered Eff. #42 7/8/40

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON

July 8, 1940.

FILED

Please return to the Secretary's File Room

MEMORANDUM NO. 726, Supplement No. 2

Departmental Board of Survey

Designation of the Chief, Division of Purchase, Sales and Traffic, as Chairman of the Departmental Board of Survey for the term ending June 30, 1940, is hereby extended to June 30, 1943.

Grover B. Hill
Acting Secretary.

Authorization

DEPARTMENT OF AGRICULTURE

WASHINGTON, D.C.

Canceled 7/16/37

July 1, 1937.

FILED

MEMORANDUM NO. 727

Resettlement Administration

In view of my memorandum to Mr. C. B. Baldwin, Assistant Administrator, Resettlement Administration, dated June 19, 1937, Memorandum No. 724 (Resettlement Administration), dated July 1, 1937, is hereby canceled.

Harry L. Brown

Acting Secretary.

DEPARTMENT OF AGRICULTURE

WASHINGTON, D.C.

Filed
7/18/37

July 1, 1937.

MEMORANDUM NO. 728

Resettlement Administration.

Pursuant to the authority delegated to me in Executive Order No. 7530 of December 31, 1936, as amended, it is hereby ordered that the provisions of Memorandum No. 715 of March 31, 1937, as amended, be continued in force and effect (unless otherwise hereinbefore specifically provided) until revoked, provided that:

Subparagraph "e" of paragraph "1" of said Memorandum is hereby amended so as to authorize the Administrator of the Resettlement Administration to sign letters of authorization covering transfers of official station.

Harry L. Brown

Acting Secretary.

File

Ordered #100 8/5/37

August 5, 1937.

Memorandum No. 729

Designation of Liaison Board, Land Use Coordination, and
Designation of Assistant Coordinator of Land Use Planning

In Memorandum No. 725, dated July 12, 1937, I announced, in accordance with the recommendations of all branches of the Department concerned with land use planning and related activities, the designation of a Coordinator of Land Use Planning.

I now wish to designate the members of the Liaison Board which will advise with the Coordinator on all matters of basic land use policy. The members of the Board have been recommended by the various Bureau Chiefs and membership may be changed from time to time in order to comply with the wishes of such Chiefs:

Agricultural Adjustment Administration	Dr. F. F. Elliott
Bureau of Agricultural Economics	Dr. A. G. Black
Bureau of Biological Survey	Mr. J. C. Salyer
Bureau of Chemistry and Soils	Dr. Chas. Kellogg
Extension Service	Dr. C. W. Warburton
Forest Service	Mr. Earle Clapp
Bureau of Public Roads	Mr. L. S. Tuttle
Resettlement Administration	Mr. Milo R. Perkins
Soil Conservation Service	Mr. D. S. Myer

I am particularly happy to announce that Mr. Ernest H. Wiecking has consented to serve as Assistant Coordinator of Land Use Planning. He will give special attention to the professional and technical aspects of land use coordination.

M. L. Wilson

Acting Secretary.

(Outline of form to be used in Department of Agriculture for obtaining Budget Clearance)

Hon. D. W. Bell, Acting Director,

Bureau of the Budget.

Dear Mr. Bell:

Pursuant to the requirement of Budget Circular 336, there is transmitted herewith for clearance a proposed report (or recommendation, or request, etc.) from this Department to the Chairman of the House Committee on Agriculture (or other Congressional addressee), concerning:

H.R._____. A Bill to _____
(cite title of Bill)

(Then follow with such paragraphs as may be necessary to give the Budget Bureau an understanding of the situation, except where that is accomplished by the report itself. In cases where bills have financial aspects not covered fully in the report it is essential to explain these for the information of the Budget Bureau.)

Sincerely,

Secretary.

3 Enclosures:
Signed Original and 2 carbons
of proposed report.

Note:

When presented for the Secretary's signature, reports or recommendations to be cleared will be accompanied by 7 carbons, as follows:

1 salmon carbon (used for initialing - retained in Secretary's File Room); 1 white carbon (retained in Secretary's File Room); 2 white carbons (to accompany the original to its final Congressional destination); 2 white carbons (for the Budget Bureau as required by Circular 336); 1 white carbon (to be returned by Secretary's File Room to the originating bureau when report finally cleared).

Letters of transmittal to the Budget Bureau will be accompanied by 4 carbons as follows:

1 salmon carbon (used for initialing - retained in Secretary's File Room); 1 white carbon (retained in Secretary's File Room); 1 white carbon (to be returned by Secretary's File Room to the bureau, showing date original sent to the Budget Bureau); 1 white carbon (to be sent by Secretary's File Room to the Director of Finance, showing date original sent to the Budget Bureau).

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C.

June 10, 1935

CHIEFS OF BUREAUS AND OFFICES:

In December last a procedure was established by the President which requires that proposed legislation (other than legislation involving appropriations, which is cleared through the Budget Bureau) be cleared through the National Emergency Council for approval of the President. Under date of April 23, 1935, the following communication was received from the Executive Director of the National Emergency Council:

"At a meeting of the National Emergency Council, April 23, 1935, the President directed that:

'Nothing contained in the letter of instructions of December 13, 1934, in reference to appropriation measures or bills carrying appropriations, shall be construed as superseding, invalidating, or interfering in any way with the requirement of Budget Circular #49 as amended by Budget Circular #273.'

"A confusion has existed with respect to the review of reports to be submitted on bills introduced by members of Congress. Several departments have made favorable reports on legislation in this category involving prospective expenditures and authorizations for expenditures without first submitting their reports to the Bureau of the Budget.

"It would be helpful if those receiving this letter would notify all members of their respective staffs who handle legislative matters as to this ruling."

All members of the Department will be guided by the foregoing, and in order to provide for adequate coordination of our legislative procedures under these requirements the following should be noted and observed:

(1) The clearance of the Executive Council to be arranged for, in cases where such clearance is necessary, by the immediate office of the Secretary.

(2) The procedure involved in Budget clearance on legislation involving additional expenditures and other information concerning detailed procedures is set forth in Budget and Finance Memorandum No. 12 dated June 10, 1935, which has been compiled for the information of those in the Department who handle legislative matters.

(3) All reports or recommendations concerning legislation should be prepared for the signature of the Secretary.

(4) All members of the Department who are called upon to testify before the Committees in Congress should report to the immediate office of the Secretary so that a record may be made of their appearance, and immediately following such testimony make a brief written report of the same to the Secretary giving the gist (very briefly) of the testimony given and such other facts as may be needed for departmental information.

H A Wallace

Secretary.

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF BUDGET AND FINANCE
WASHINGTON, D. C.

June 10, 1935.

Budget and Finance Circular No. 12.

Information Concerning Budget Clearance of Legislative Reports or Recommendations and other procedure involved therein.

(1) A Budget clearance is required on all proposed favorable reports on, or recommendations for, legislation, which if enacted would necessitate additional expenditures. Before such reports or recommendations are sent forward they must be referred by the Department to the Budget Bureau for advice as to their relation to the financial program of the President.

The formal requirement in this respect is set forth in Budget Circular 49 dated December 19, 1921, which as amended by Budget Circular 273, dated December 20, 1929, issued "By direction of the President" reads as follows:

"1. The Budget and Accounting Act, 1921, provides in part as follows:

'Sec. 201. The President shall transmit to Congress, on the first day of each regular session, the Budget, which shall set forth in summary and in detail:

(a) Estimates of the expenditures and appropriations necessary in his judgment for the support of the Government for the ensuing fiscal year; except that the estimates for such year for the Legislative Branch of the Government and the Supreme Court of the United States shall be transmitted to the President on or before October 15th of each year, and shall be included by him in the Budget without revision.'

* * * * * *

'Sec. 203. (a) The President from time to time may transmit to Congress, supplemental or deficiency estimates for such appropriations or expenditures as in his judgment (1) are necessary on account of laws enacted after the transmission of the Budget, or (2) are otherwise in the public interest. He shall accompany such estimates with a statement of the reasons therefor, including the reason for their omission from the Budget.'

2. To insure that all estimates or requests for appropriations originating within the executive branch of the Government are presented in the manner prescribed in the Budget and Accounting Act, 1921, it is further provided in Section 206 of said Act that:

> 'No estimate or request for an appropriation and no request for an increase in an item of any such estimate or request * * * shall be submitted to Congress or any committee thereof, by any officer or employee of any department or establishment, unless at the request of either House of Congress.'

3. The language of Section 206 relates only to estimates or requests for direct appropriations or increases in items of prospective appropriations. But it is necessary for a full compliance with its spirit that all requests or recommendations for legislation, the effect of which would be to create a charge upon the public Treasury or commit the Government to obligations which would later require appropriation to meet them, should be first submitted to the President before being presented to Congress. It is therefore directed:

> (a) No request or recommendation of this character, originating in any executive department or independent establishment, shall be sent to either House of Congress until it has been ascertained through the Director of the Bureau of the Budget that it has the approval of the President.
>
> (b) No favorable report shall be made upon any measure proposing legislation of this character (except measures relating to private relief) until it has been ascertained through the Director of the Bureau of the Budget whether or not the expenditure contemplated by the proposed legislation is in accord with the financial program of the President, and if not in such accord the report shall so state. This procedure is not required with regard to reports on measures relating to private relief or to unfavorable reports on other measures.
>
> (c) Copies of all reports whether favorable or unfavorable shall be promptly furnished the Director of the Bureau of the Budget for the information of the President."

(2) General Procedure: The departmental procedure requires that all reports or other correspondence with the Committees of Congress or Members thereof which involve the expression of official views respecting legislation be prepared for the signature of the Secretary.

When a report or a recommendation pertaining to legislation (of any character) is prepared in a bureau of the Department, it should be initialed by the Chief or Acting Chief of the Bureau and sent to the Office of the Secretary for signature, in the usual way. Provision exists in the departmental mail system for its automatic reference to the~~s~~ ~~Solicitor and the departmental Budget~~ ~~O~~ffice~~s~~ before such reports are signed by the Secretary. When, in order to expedite, or for other reasons, proposed reports are carried personally rather than put into the departmental mail channels they should be initialed by the Solicitor and the Budget Officer before they are presented to the Office of the Secretary.

(3) Favorable Reports: When drafts of proposed favorable reports on bills involving additional expenditures are referred to the departmental Budget Office, a letter to the Budget Bureau requesting clearance is prepared by that office, and is presented to the Secretary for signature at the same time that he signs the report proper. A carbon of the proposed report goes to the Budget Bureau, the original of the signed report being held in a suspense file in the Secretary's File Room until the Budget Bureau clearance is received.

When the Budget Bureau clearance is received, the entire file is sent by the File Room to the departmental Budget Officer who determines whether, in the light of the Budget communication, the report may be sent to Congress as originally drafted and signed by the Secretary, whether it should be revised or a notation added relating to the Budget Bureau clearance, or whether the whole matter will have to be reconsidered by or with the originating bureau. In all such cases the interested bureau is advised of the final action taken.

(4) Requests for the introduction of Bills: These are handled in the same manner as favorable reports on bills already introduced.

(5) Unfavorable Reports: Unfavorable reports on bills which if enacted would involve additional expenditures are not cleared through the Budget Bureau, but pursuant to Budget Circular 49, as amended, and quoted in the foregoing, a carbon copy of all such unfavorable reports is sent to the Budget Bureau. This is attended to by the Secretary's File Room, under written notation on each such case from the departmental Budget Officer.

(6) Reports on Private Relief Bills: Pursuant to the provisions of Budget Circular 49 Budget clearance is not necessary on reports on bills of this type (damage claims, etc.) but a carbon copy of all such reports, whether favorable or unfavorable, is sent by the Department to the Budget Bureau. This also is attended to by the Secretary's File Room, under instructions in each case from the departmental Budget Officer.

Insert A

(7) Financial aspects to be covered in reports: If reports on bills, as drafted and submitted to the Budget Bureau by the Department, are silent as to the financial aspects of the proposal involved in the legislation the Budget Bureau is unable to perform its functions on the facts submitted. In such cases much time is consumed in telephoning, personal investigation, preparation of supplemental memorandums, etc., to clear up this point. For the information of both the Department and the Budget Bureau, therefore, a brief discussion of the financial aspects of bills should be included at some appropriate point in all reports as originally drawn. It should be sufficient to inform as to the probable annual cost of the activity involved. Usually this will be covered by a sentence or two or a paragraph toward the end of the report. If receipts are anticipated that point should be covered also. In cases where the financial element is a major consideration of the particular legislation reported upon, a more extended discussion naturally will be included. In most cases this information also is of interest to the Committee in Congress to which the report is addressed.

If in a particular case it seems inappropriate to include such a discussion in the report itself, ~~a separate memorandum, in duplicate~~, dealing with the financial aspects should ~~accompany the proposed report~~. ~~In such cases, the Department forwards the memorandum with, or incorporates the information it contains in~~ the letter to the Budget Bureau ~~submitting the report for clearance~~. information be included in the required by the ~~to~~ next paragraph of this memorandum.

In some cases reports on bills are of such character that one not intimately familiar with the subject matter is left in doubt as to whether the legislation would or would not involve additional expenditures if enacted. In one class of reports of this latter, doubtful type, viz., land additions to National Forests, it is the practice to include a sentence in the report to the effect that the lands involved could be administered without additional appropriations. This statement definitely clears up the question and makes it unnecessary to ~~delay the report by~~ securing ~~a~~ the Budget Bureau clearance. In reports on bills of such type that one outside of the particular bureau concerned may be in doubt as to whether they will or will not cost money if enacted some statement on this point should be included, either in the report or in ~~an attached memorandum~~. deal further with the question of appropriations when the letter to the Budget Bureau

(8) Doubtful Cases: Questions arise frequently as to whether an advance Budget clearance is required on reports on bills which if enacted would require an initial outlay of Government funds which it is anticipated, however, would be offset by receipts to be deposited in the Treasury or where no additional specific appropriation would be involved and yet increased expenditures may, or are likely to result. Examples of these are bills to amend the Agricultural Adjustment Act by adding new basic commodities, bills to establish some new inspection or grading service for which fees would be charged, bills to broaden the base of legislation under which Government funds are loaned or paid to States, and so on. The Department secures a Budget clearance on all such doubtful cases.

336

Insert B

(8) Informal reports or recommendations: The question sometimes is raised as to whether the Budget clearance procedure applies only to formal departmental reports or recommendations, addressed to the Committees of Congress on specific pending bills or whether it applies also to reports or quasi-reports or recommendations requested by individual members of Congress, the latter sometimes being requested of various individual members of the Department rather than by letter to the Secretary of Agriculture. Pursuant to ~~Paragraph 3(b) of~~ Budget Circular ~~49~~, the clearance procedure applies to all expressions that can be construed as official reports or recommendations favorable to legislation involving increased expenditures. In such cases clearances may be obtained through the usual departmental channels.

(10) Verbal expressions and testimony before Congressional Committees; Where representatives of the Department are requested to testify before Congressional Committees or to advise with individual members of Congress concerning legislation that would involve increased expenditures that has not yet been cleared by the Department through the Budget Bureau, if their testimony is expected to cover more than technical or informational aspects of the subject under discussion, they should endeavor if possible to secure a Budget clearance, through departmental channels, prior to the hearing. If there has not been sufficient time to secure a clearance and official opinions nevertheless are required to be expressed departmental representatives should point out that fact in the course of their testimony, in order that the Committee may be advised that the legislation has not been passed upon from the angle of its relationship to the financial program of the President. In such circumstances it should be made clear that any informal departmental expression is subject to such clearance and to such modification if any as may be indicated thereby.

All members of the Department who are called upon to testify before the Committees in Congress should report to the immediate office of the Secretary so that a record may be made of their appearance, and immediately following such testimony make a brief written report of the same to the Secretary giving the gist (very briefly) of the testimony given and such other facts as may be needed for departmental information.

W. A. Jump

W. A. JUMP,
Director of Finance.

Circular No. 336

BUREAU OF THE BUDGET

WASHINGTON

December 21, 1935.

TO THE HEADS OF EXECUTIVE DEPARTMENTS, INDEPENDENT ESTABLISHMENTS AND OTHER GOVERNMENT AGENCIES, INCLUDING CORPORATIONS.

This Circular supersedes Budget Circular No. 49 of December 19, 1921, Budget Circular No. 273 of December 29, 1929, Budget Circular Letter of April 10, 1930, National Emergency Council Memorandum of December 13, 1934, and National Emergency Council Memorandum of April 23, 1935.

Estimates or Requests for Appropriations.

Section 206 of the Budget and Accounting Act, 1921, provides that:

> "No estimate or request for an appropriation and no request for an increase in an item of any such estimate or request, and no recommendation as to how the revenue needs of the Government should be met, shall be submitted to Congress or any committee thereof by any officer or employee of any department or establishment, unless at the request of either House of Congress."

Section 2 of said Act contains the following definition:

> "When used in this Act --
>
> "The terms 'department and establishment' and 'department or establishment' mean any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government, including the municipal government of the District of Columbia, but do not include the Legislative Branch of the Government or the Supreme Court of the United States;"

Reports and Recommendations on Proposed or Pending Legislation.

At a meeting of the National Emergency Council, December 17, 1935, the President directed that:

There shall be sent to the Bureau of the Budget, for consideration of the President before submission to the Congress, or any committee or member thereof, the original and two copies of each recommendation or report, concerning proposed or pending legislation (other than private relief legislation), requested from or advanced by any executive department, independent establishment, or other Government agency (including the municipal government of the District of Columbia and Government-owned or Government-controlled corporations), or any officer thereof. When such recommendation or report thereafter is submitted to the Congress, or to a committee or member thereof, it shall include a statement as to whether the proposed legislation is or is not in accord with the program of the President.

Before any person in his official capacity as officer or employee of any executive department, independent establishment, or other Government agency (including the municipal government of the District of Columbia and Government-owned or Government-controlled corporations) shall advocate or oppose legislation (other than private relief legislation) before any committee of the Congress, he shall ascertain from the Bureau of the Budget through the Budget officer of his organization whether such legislation is or is not in accord with the program of the President, and he shall so inform the committee.

The Procedure for carrying out the above directions will be as follows:

(a) Legislation solely concerning fiscal matters will be cleared by the Bureau of the Budget with the President. Thereafter, the submitting agency will be advised by the Bureau of the Budget whether such legislation is or is not in accord with the financial program of the President.

(b) Legislation solely concerning policy matters will be transmitted by the Bureau of the Budget to the office of the National Emergency Council, with such comment as the Bureau of the Budget desires to make. The office of the National Emergency Council will then clear the legislation with the President and advise the Bureau of the Budget of the President's action. Thereafter, the submitting agency will be advised by the Bureau of the Budget whether the legislation is or is not in accord with the policy program of the President.

(c) Legislation involving both fiscal and policy matters will be cleared jointly with the President by the Bureau of the Budget and the office of the National Emergency Council. Thereafter, the submitting agency will be advised by the Bureau of the Budget (1) whether the legislation is or is not in accord with the financial program of the President, and (2) whether the legislation is or is not in accord with the policy program of the President.

By direction of the President:

D. W. Bell,
Acting Director of the
Bureau of the Budget.

January 10, 1936.

Hon. D. W. Bell, Acting Director,

Bureau of the Budget.

Dear Mr. Bell:

I am transmitting herewith a copy of Department of Agriculture Memorandum No. 683, issued January 2, 1936, to establish internal procedure here under Budget Circular No. 336, in relation to clearance of legislative reports, recommendations, etc. This departmental memorandum was issued in its present form in order that the information contained therein might be circulated to all branches of the Department before Congress convened.

It is our feeling, however, that in order to prevent confusion, and possibly embarrassment, in dealing with the Congressional committees, a supplemental memorandum will have to be issued by the Department giving explicit instructions as to the procedure to be followed when departmental witnesses are called before these committees for conference or oral testimony at hearings. Such calls are received constantly. It may be that the subject matter of the work of this Department in relation to legislation is such that this point arises more frequently in the Department of Agriculture than in the other Departments. For example there is, as you know, a large volume of bills pending at all times dealing with land exchanges, fixing of boundaries, etc., with respect to the National Forests. Also, both the House and Senate Committees on Agriculture follow the practice of calling, often by telephone, bureau chiefs, technical experts and other officials from the Department for hearing and consultation with respect to the very large number of bills that always are pending before these Committees. Often such calls are received on very short notice. Not infrequently the Committees will telephone one afternoon and desire a witness present the following morning. On other occasions, not more than a half hour or an hour's notice will be given.

It is of course generally desirable for the technical staff of the Department to be consulted by the Congressional Committees and to keep in close touch with pending legislation in their fields. The Congressional Committees, I am quite sure, feel that they are entitled at all times to full information and recommendations from the Department authorities in a given field. On the latter point, while entirely sensible to the real need for coordination of this phase of activity in the executive branch, I am apprehensive that any action on the part of the executive branch which could possibly be interpreted as limiting the ability of the legislative branch to get promptly such information and recommendations as they deem desirable may prove a source of embarrassment to the Administration.

January 10, 1956.

Hon. E. F. Dail, Acting Director,

Bureau of the Budget.

Dear Mr. Dail:

I am transmitting herewith a copy of Department of Agriculture Memorandum No. 1071, issued January 5, 1956, to regulations entitled "Procedures Governing Employee Initiative No. 318, in relation to clearance of legislative reports, recommendations, etc. This departmental memorandum was issued in the present form in order that the information contained therein might be circulated to all employees of the Department before Congress convenes.

It is our feeling, however, that in order to prevent confusion and possibly embarrassment, in dealing with the Congressional committees, a supplemental memorandum will have to be issued by the Department giving explicit instructions as to the procedure to be followed when departmental witnesses are called before these committees for conferences or giving testimony as briefing. Such calls are received constantly. It may be that the subject matter of the work of this Department in relation to legislation is such that this calls taken more frequently in the Department of Agriculture than in the other Departments. For example there is, as you know, a large volume of bills pertinent at all times dealing with land conditions, flood of beneficiaries, etc., with property in the Internal Revenue. Also, such the State and Local Conditions on agricultural bills under the jurisdiction of committees by telephone, express delay, technical experts and other officials from the Department for hearing and consultation with respect to the very large number of bills that always are pending before these committees. Often such calls are received at very short notice. The informality the Committees will tolerate are otherwise and during a witness present the following morning. In other words, not have time a brief memo or an hour's notice will be given.

It is of course reasonably desirable for the technical staff of the Department to be consulted by the Congressional Committees and to keep in close touch with pending legislation in their fields. The Congressional Committees, I am quite sure, feel that they are entitled at all times to full information and representations from the Department authorities in a given field. On the latter point, while entirely sensible to the real need for coordination of this phase of activity in the executive branch, I am apprehensive that any action on the part of the executive branch which could possibly be interpreted as limiting the ability of the individual branch to get prompt and information and recommendations as they deem desirable may cause a degree of embarrassment to the Administration.

At the present time, departmental officers and employees are free to respond to these requests from the Congressional Committees, the departmental procedure requiring that the Office of the Secretary be notified in advance by the witness, if he or his bureau is called directly, and that he shall file with the Secretary's office a prompt report of the testimony given, for the purposes of departmental information. Of course, the officers and employees of the Department appearing before these Committees have understood that they appear as technical experts for the purpose of giving such information or advice as may be requested by the Committee, including, where directly requested, their personal official opinion as to the desirability of the legislation. Where the latter is requested in the case of bills which if enacted would involve increased expenditures, the departmental witnesses in the past have been instructed to make it clear to the Committee that no official recommendation could be made until clearance of such recommendation was obtained under Budget Circular 49.

It is not clear to the Department that this arrangement can be continued under Budget Circular 336. It seems clear that where a written expression is requested or that when verbal testimony is required and sufficient advance notice is given, the witness, through departmental channels, is to secure a clearance as required by Budget Circular 336. The point on which I feel we need advice at this time, before confusion arises, is the course to be followed when, without opportunity to secure a clearance under Budget Circular 336, a bureau chief or other member of the Department is (1) called before a Congressional committee to supply information or advice with respect to pending or proposed legislation, and (2) is asked for information or advice on pending legislation by an individual member of the House or Senate. In such cases should the witness, if asked as to the desirability of a legislative proposal give his opinion but state that such opinion can not be interpreted as an official opinion unless a Budget clearance is obtained or shall he advise the Committee that he can not give a personal official opinion until he has had opportunity to secure clearance under Budget Circular 336?

I assume that no change is necessary in the prevailing arrangement whereby members of the Department are permitted to give factual information and assist in drafting service not involving the expression of a recommendation for or against a legislative proposal. If this is not correct, please advise us on this point also.

With the thought that it may assist the Budget Bureau in clarifying this matter I am transmitting a draft of a memorandum which if it meets the intent of Budget Circular 336, would provide a workable basis for Departmental procedure. I will be glad if the Budget Bureau will indicate such revision, if any, as ought to be made in this draft to conform to the current requirement.

Your cooperation in clearing up these points, at your earliest opportunity, will be appreciated, to the end that we may correctly advise all of our officers.

Sincerely,

(Signed)

H A Wallace

Secretary.

At the present time, departmental officers and employees are free to respond to these requests from the Departmental Committee, the Departmental procedure requiring that the Office of the Secretary be notified in advance by the witness, if he or his superior is acting directly, and that he shall file with the Secretary's office a written report of the hearing view, for the purpose of departmental information. Of course, the officers and employees of the Department appearing before these Committees have maintained that they appear as technical experts for the purpose of giving such information or advice as may be requested by the Committee, instances where directly requested, their personal official opinion as to the desirability of the legislation. Where the latter is requested in the case of bills which if enacted would involve increased appropriations, the Department witnesses in the past have been instructed to make it clear to the Committee that no official recommendation could be made until clearance of such recommendations has obtained approval of the Bureau of Budget.

It is not clear if the Secretary's letter intended that he be consulted on the Budget Circular 104. It would appear that if there is a difference in requested or full view versus testimony is requested and official departmental opinion solicited in view, the witness, therefore departmental counsel, is in doubt a difference as required by Budget Circular 104. The point on which I feel we need advice at this time, before confusion arises, is the question of, if requested then, without authority to secure a clearance under Budget Circular 104, a direct order or other request of the Department is [illegible] before a Congressional committee to verify information or advice with respect to pending or proposed legislation, and (2) is going for information or advice on pending legislation to be obtained from members of the House or Senate. In some cases which the witness is asked to in the capacity of a departmental or official opinion but [illegible] state that such opinion was not be departmental or official opinion [illegible] a Budget clearance in accordance or [illegible] the Committee [illegible] not form a personal official opinion [illegible] by [illegible] [illegible] [illegible] Bureau of Budget 104?

I assume that a change in [illegible] in the pending proposal [illegible] [illegible] of the Department. In particular in view [illegible] [illegible] in [illegible] [illegible] the [illegible] of a recommendation for or against a legislative proposal. If this is not correct, please [illegible] me [illegible]

With the Budget Bureau in mind the Budget Bureau in [illegible] this matter I am [illegible] a draft of a memorandum which if it meets the [illegible] of Budget Circular 104, would provide a workable basis for Departmental [illegible]. I will be glad to discuss the matter with [illegible] [illegible] If so, we would be [illegible] in this draft to [illegible] [illegible]

[illegible] Secretary's File Room

Secretary.

January 10, 1936.

Hon. D. W. Bell, Acting Director,

Bureau of the Budget.

Dear Mr. Bell:

I am transmitting herewith a copy of Department of Agriculture Memorandum No. 683, issued January 2, 1936, to establish internal procedure here under Budget Circular No. 336, in relation to clearance of legislative reports, recommendations, etc. This departmental memorandum was issued in its present form in order that the information contained therein might be circulated to all branches of the Department before Congress convened.

It is our feeling, however, that in order to prevent confusion, and possibly embarrassment, in dealing with the Congressional committees, a supplemental memorandum will have to be issued by the Department giving explicit instructions as to the procedure to be followed when departmental witnesses are called before these committees for conference or oral testimony at hearings. Such calls are received constantly. It may be that the subject matter of the work of this Department in relation to legislation is such that this point arises more frequently in the Department of Agriculture than in the other Departments. For example there is, as you know, a large volume of bills pending at all times dealing with land exchanges, fixing of boundaries, etc., with respect to the National Forests. Also, both the House and Senate Committees on Agriculture follow the practice of calling, often by telephone, bureau chiefs, technical experts and other officials from the Department for hearing and consultation with respect to the very large number of bills that always are pending before these Committees. Often such calls are received on very short notice. Not infrequently the Committees will telephone one afternoon and desire a witness present the following morning. On other occasions, not more than a half hour or an hour's notice will be given.

It is of course generally desirable for the technical staff of the Department to be consulted by the Congressional Committees and to keep in close touch with pending legislation in their fields. The Congressional Committees, I am quite sure, feel that they are entitled at all times to full information and recommendations from the Department authorities in a given field. On the latter point, while entirely sensible to the real need for coordination of this phase of activity in the executive branch, I am apprehensive that any action on the part of the executive branch which could possibly be interpreted as limiting the ability of the legislative branch to get promptly such information and recommendations as they deem desirable may prove a source of embarrassment to the Administration.

January 10, 1936.

Hon. E. V. Dell, Acting Director,

Bureau of the Budget.

Dear Mr. Dell:

I am transmitting herewith a copy of Department of Justice memorandum No. 687, dated January 8, 1936, on pending internal procedure bars under Circular No. 175, its relation to proposed of legislative policy, recommendations, etc. This departmental memorandum was issued in its present form in order that the information contained therein might be circulated to all bureaus of the Department before Congress convenes.

It is our feeling, however, that in order to prevent confusion, and possibly embarrassment, in dealing with the Congressional committees, a supplemental memorandum will have to be issued by the Department giving legislative recommendations as to the procedure to be followed when departmental witnesses are called before these committees for conferences or for testimony at hearings. Such calls are received constantly. It may be that the subject matter of the bills of this Department in relation to legislation is such that this point bears very frequently in the Department of Justice than in the other Departments. For example there is, as you know, a large volume of bills pending at all times dealing with land ownership, trusts of boundaries, etc., with respect to the National Forests. Also, bills dealing with Indian Committees on reservations follow the passing of petitions signed by Indians, various civic, fraternal organizations and other officials from the Department for hearing and consultation with respect to the very large number of bills that always are pending before these Committees. Often such bills are received on very short notice. And inevitably the committee will telephone one attorney and bring a witness from the Interior Department. In other questions, and more than a half hour of an hour's notice will be given.

It is of course exactly desirable for the legislative staff of the Department to be consulted by the Congressional Committees and is done in close touch with pending legislation in their field. The difficulties, however, I am quite sure, that this Department is confronted with are well known. In the latter case, with actually consulting the proposed legislation at the volume of activity in the executive branch, I am convinced that any action on the part of the executive branch which would operate to interpose or limit the ability of the legislative branch in its activity and information and recommendations as they deem desirable may be a source of misunderstanding by the legislative.

At the present time, departmental officers and employees are free to respond to these requests from the Congressional Committees, the departmental procedure requiring that the Office of the Secretary be notified in advance by the witness, if he or his bureau is called directly, and that he shall file with the Secretary's office a prompt report of the testimony given, for the purposes of departmental information. Of course, the officers and employees of the Department appearing before these Committees have understood that they appear as technical experts for the purpose of giving such information or advice as may be requested by the Committee, including, where directly requested, their personal official opinion as to the desirability of the legislation. Where the latter is requested in the case of bills which if enacted would involve increased expenditures, the departmental witnesses in the past have been instructed to make it clear to the Committee that no official recommendation could be made until clearance of such recommendation was obtained under Budget Circular 49.

It is not clear to the Department that this arrangement can be continued under Budget Circular 336. It seems clear that where a written expression is requested or that when verbal testimony is required and sufficient advance notice is given, the witness, through departmental channels, is to secure a clearance as required by Budget Circular 336. The point on which I feel we need advice at this time, before confusion arises, is the course to be followed when, without opportunity to secure a clearance under Budget Circular 336, a bureau chief or other member of the Department is (1) called before a Congressional committee to supply information or advice with respect to pending or proposed legislation, and (2) is asked for information or advice on pending legislation by an individual member of the House or Senate. In such cases should the witness, if asked as to the desirability of a legislative proposal give his opinion but state that such opinion can not be interpreted as an official opinion unless a Budget clearance is obtained or shall he advise the Committee that he can not give a personal official opinion until he has had opportunity to secure clearance under Budget Circular 336?

I assume that no change is necessary in the prevailing arrangement whereby members of the Department are permitted to give factual information and assist in drafting service not involving the expression of a recommendation for or against a legislative proposal. If this is not correct, please advise us on this point also.

With the thought that it may assist the Budget Bureau in clarifying this matter I am transmitting a draft of a memorandum which if it meets the intent of Budget Circular 336, would provide a workable basis for Departmental procedure. I will be glad if the Budget Bureau will indicate such revision, if any, as ought to be made in this draft to conform to the current requirement.

Your cooperation in clearing up these points, at your earliest opportunity, will be appreciated, to the end that we may correctly advise all of our officers.

Sincerely,

(Signed)

H. A. Wallace

Secretary.

DEPARTMENT OF AGRICULTURE
WASHINGTON

August 11, 1937

MEMORANDUM NO. 730*

Preparation and Clearance of Recommendations and Reports on Legislation

(1) There is quoted below, for the information and guidance of all officers and employees of the Department, Budget Bureau Circular No. 336, issued December 21, 1935, by direction of the President, establishing the procedure to be followed with respect to clearance of reports or recommendations, whether favorable or unfavorable, pertaining to legislation:

(2) Budget Bureau Circular 336

"This Circular supersedes Budget Circular No. 49 of December 19, 1921, Budget Circular No. 273, of December 20, 1929, Budget Circular Letter of April 10, 1930, National Emergency Council Memorandum of December 13, 1934, and National Emergency Council Memorandum of April 23, 1935.

"Estimates or Requests for Appropriations:

"Section 206 of the Budget and Accounting Act, 1921, provides that:

> 'No estimate or request for an appropriation and no request for an increase in an item of any such estimate or request, and no recommendation as to how the revenue needs of the Government should be met, shall be submitted to Congress or any committee thereof by any officer or employee of any department or establishment, unless at the request of either House of Congress.'

"Section 2 of said Act contains the following definition:

"When used in this Act —

> 'The terms "department and establishment" and "department or establishment" mean any executive department, independent commission, board, bureau,

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*Superseding Department Memorandums Nos. 683 and 709, Budget and Finance Circular No.12, and other previous instructions relating to this subject.

office, agency, or other establishment of the Government, including the municipal government of the District of Columbia, but do not include the Legislative Branch of the Government or the Supreme Court of the United States;'

"Reports and Recommendations on Proposed or Pending Legislation:

"At a meeting of the National Emergency Council, December 17, 1935, the President directed that:

'There shall be sent to the Bureau of the Budget for consideration of the President before submission to the Congress, or any committee or member thereof, the original and two copies of each recommendation or report, concerning proposed or pending legislation (other than private relief legislation), requested from or advanced by any executive department, independent establishment, or other Government agency (including the municipal government of the District of Columbia and Government-owned or Government-controlled corporations), or any officer thereof. When such recommendation or report thereafter is submitted to the Congress, or to a committee or member thereof, it shall include a statement as to whether the proposed legislation is or is not in accord with the program of the President.

'Before any person in his official capacity as officer or employee of any executive department, independent establishment, or other Government agency (including the municipal government of the District of Columbia and Government-owned or Government-controlled corporations) shall advocate or oppose legislation (other than private relief legislation) before any committee of the Congress, he shall ascertain from the Bureau of the Budget through the Budget Officer of his organization whether such legislation is or is not in accord with the program of the President, and he shall so inform the committee.'

"The Procedure for carrying out the above directions will be as follows:

"(a) Legislation solely concerning fiscal matters will be cleared by the Bureau of the Budget with the President. Thereafter, the submitting agency will be advised by the Bureau of the Budget whether such legislation is or is not in accord with the financial program of the President.

"(b) Legislation solely concerning policy matters will be transmitted by the Bureau of the Budget to the office of the National Emergency Council, with such comment as the Bureau of the Budget desires to make. The office of the National Emergency Council will then clear the legislation with the President and advise the Bureau of the Budget of the President's action. Thereafter, the submitting agency will be advised by the Bureau of the Budget whether the legislation is or is not in accord with the policy program of the President.

"(c) Legislation involving both fiscal and policy matters will be cleared jointly with the President by the Bureau of the Budget and the office of the National Emergency Council. Thereafter, the submitting agency will be advised by the Bureau of the Budget (1) whether the legislation is or is not in accord with the financial program of the President, and (2) whether the legislation is or is not in accord with the policy program of the President."

(3) Department of Agriculture Procedure*

(a) The term "reports" as used in this memorandum includes reports, recommendations, requests for introduction or consideration of bills, amendments, or otherwise, and all other correspondence with Congress, Congressional Committees, or Members of Congress, pertaining to pending or proposed legislation. All such correspondence will be signed by the Secretary.

(b) Original drafts of departmental reports: In carrying into effect the provisions of Budget Circular 336 all reports on legislation will be prepared and initialed by the Chief or Acting Chief of the bureau concerned in the manner required for other correspondence prepared for the signature of the Secretary, but the usual closing and title of the signing officer (Secretary) will be omitted from the drafts so made. These will be added later by the departmental Office of Budget and Finance, after the Budget Bureau clearance has been obtained.

(c) Contents: Reports on bills generally should contain at the outset a concise statement of the purpose and effect of the proposed legislation. In most cases this should be supplemented, briefly, by such factual information and comment as the Department is able to supply, bearing in mind that the several agencies, departmental, budgetary and legislative, that must consider the report may not be as fully informed with respect to the subject matter as the bureau which is preparing the report and therefore require some factual information on the subject; also that legislative committees often desire to include the reports of the departments in the printed committee report on the bill. If the department has any amendments to suggest these

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*For forms used in preparing reports, etc., number of carbons, see Appendix A, attached.

should be indicated specifically, in terms, the page and line number where they should be inserted should be cited, and the reason for the proposed amendments clearly stated. The financial aspects of the legislation also should be covered (see next paragraph). Except in rare instances, the report should include the specific recommendation of the Department with respect to the enactment of the bill, usually as the closing paragraph of the draft prepared in the bureau.

(d) Financial aspects: The Department, the Budget Bureau, and the Congressional Committee, usually require definite information with respect to the financial aspects of legislation covered by proposed reports. If reports on bills, as drafted by the Department, are silent or vague as to the financial aspects of the proposal involved in the legislation the Budget Bureau is unable to perform its functions of clearance on the facts submitted. In such cases much time is consumed in telephoning, personal investigation, preparation of supplemental memorandums, etc., to clear up this point. A brief discussion of the financial aspects of bills generally should be included, therefore, at some appropriate point in all reports as originally prepared. This discussion should be sufficient to inform as to probable annual cost involved in the event the legislation is enacted. Usually this will be covered by a sentence or two or a paragraph toward the end of the report. If receipts of funds are anticipated that subject should be covered also, including a statement with respect to their disposition. In cases where the financial element is a major consideration of the particular legislation reported upon, a more extended discussion naturally will be included.

If, in rare cases, it seems inappropriate to include such a discussion of finances in the report itself, information dealing with the financial aspects should be included in the letter to the Budget Bureau requesting clearance (see paragraph 3e and Appendix A) or may be stated in an accompanying memorandum addressed to the Budget Officer of the Department, furnished in duplicate, in order that a copy may be forwarded, if deemed necessary by the Department, for the information of the Budget Bureau.

In some cases reports or bills are of such character that one not intimately familiar with the subject matter is left in doubt as to whether the legislation would or would not involve additional appropriations or expenditures if enacted. In reports on bills of this type some explanatory statement should be made, either in the report or in a memorandum (in duplicate) to the Department Budget Officer. In one class of reports of this doubtful type, viz, proposed land additions to National Forests, it is the practice to include a sentence in the report to the effect that the lands involved, if added to the National Forest, could be administered without additional appropriations. This statement clears up the question and makes it unnecessary to deal further with the matter of finances when securing the Budget Bureau clearance.

(e) Budget Bureau Clearance: Upon receipt of a proposed legislative report originating in the Department, after the initials of the Solicitor are secured, the Office of Budget and Finance, pursuant to Budget Circular 336, will transmit two carbon copies of the unsigned, incomplete (see paragraph 3b) original draft directly to the Budget Bureau,

requesting clearance and setting forth any information additional to that contained in the proposed report which may facilitate its consideration by the Budget Bureau. Letters to the Budget Bureau to accomplish this clearance should be prepared in the originating bureau. (For form see Appendix A).

(f) Final drafts of departmental reports: When the Budget Bureau clearance has been received by the Department, the Office of Budget and Finance will make such revision, if any, as may be necessary in the report as originally drafted and will also incorporate in the completed report, a suitable reference to the Budget Bureau clearance, usually as the final paragraph, after which the report will be presented to the Secretary for signature. Where special conditions require, the Office of Budget and Finance will refer the entire matter back to the originating bureau or elsewhere in the Department for further consideration, in the light of the Budget Bureau report, or will route the report as revised back through the originating bureau for initialing before it is presented to the Secretary for signature.

(g) Notifications to Bureaus, Etc.: As a matter of routine, the originating bureau will in all cases receive notice from the Section of Mails and Files, Secretary's Office, by means of carbon copies (I) of the sending of a proposed report to the Budget Bureau for clearance and (II) of the report in the form in which it is finally sent to Congress. The Offices of the Secretary, Under Secretary, Assistant Secretary, and Coordinator of Land Use Planning will be notified in the same manner, of the sending of all reports to the Budget Bureau for clearance.

(h) Departmental clearance: All reports, correspondence, etc. (as defined in paragraph 3a), concerning legislation will be signed by the Secretary. They will be cleared through the Office of Budget and Finance and the Office of the Solicitor before they are presented to the Secretary for signature. Provision exists in the departmental mail system for the automatic reference of reports to these and other offices which may be concerned, before they are signed by the Secretary. When, in order to expedite, or for other reasons, proposed reports are carried around personally, rather than put into the departmental mail channels, they should be initialed by the Solicitor, the Budget Officer, and any other general officers of the Department, if any, especially concerned with the subject matter, before they are presented to the Secretary for signature.

(i) Private Relief and Other Exempted Bills: Reports on private relief bills are exempted from the Budget Bureau clearance procedure by Budget Circular 336. By special arrangement certain other classes of routine bills (certain types of bridge, flood control bills, etc.) are exempted. In preparing reports on bills in these categories the originating bureau should complete the report before sending it forward for departmental handling. In all such cases the Office of Budget and Finance will arrange for the Budget Bureau to be furnished with a carbon copy of the Department's reports, for its information, and to facilitate subsequent consideration by the Budget Bureau of enrolled bills that have passed both the House and Senate.

(j) Communications for consideration of Committees of the House of Representatives: Rule XLI of the House of Representatives reads as follows:

> "Estimates of appropriations and all other communications from the executive departments intended for the consideration of any committees of the House shall be addressed to the Speaker and by him referred as provided by clause 2 of Rule XXIV."

In the case of this Department, requests for the introduction of bills are the type of communication principally involved in the application of the foregoing rule. The Speaker has pointed out that departures from this rule are apt to involve confusion in the matter of committee jurisdiction and has formally requested its observance by the Department. All communications intended for the consideration of any committee of the House, therefore, should be addressed to the Speaker, except that (a) communications received directly from chairmen of committees of the House, including requests for reports on pending legislation, may be answered by replying directly to the chairmen of such committees, and (b) communications relating to amendments or other matters pertaining to legislation previously referred to or pending before committees of the House may also be addressed to the chairmen of such committees.

(k) Testimony before Committees: When members of the Department are requested by a Congressional Committee to appear before the committee for the purpose of giving information with respect to pending or proposed legislation upon which the Department has not yet obtained a clearance under Budget Circular 336, such witnesses, before giving their testimony (if it consists of more than the giving of strictly factual information) should state to the committee conducting the hearing that in the absence of a clearance under Budget Circular 336, their testimony may not be construed as reflecting, either one way or the other, the relationship of the proposal under consideration to the program of the President. In other words, departmental witnesses should make clear that their testimony can not involve any commitment as to the program of the President until a Budget clearance has been obtained.

Departmental witnesses should notify the Office of the Secretary, where time permits, through bureau channels, by telephone or otherwise, of their intended appearance and following their appearance, should make a very brief written report to the Secretary's Office, also through bureau channels, stating the gist of their testimony and such facts as may be appropriate, for departmental information and coordination.

Departmental representatives will not appear before Congressional Committees except upon request of a committee, or by departmental authorization. In either case, the provisions of Budget Circular 336 and of this Memorandum will apply.

(l) Drafting assistance: Where members of the Department are called upon to render drafting assistance or similar expert technical service, in connection with pending or proposed legislation, not involving the expression of official views with respect to the desirability or undesirability of such measures, the same procedure as indicated in paragraph (k) should be observed.

(m) Enrolled Bills: When legislative action is completed on a bill in which the Department of Agriculture is interested the usual procedure is for the White House or the Budget Bureau to refer the Enrolled Bill to the Department for an immediate report, for the information of the President in determining whether to approve the Bill. The departmental section of mails and files is charged with the responsibility of referring Enrolled Bills to the proper agency in the Department, usually the bureau principally concerned with the subject matter, for the preparation of a report, and of obtaining the initials of the Solicitor and the Budget Officer, and the signature of the Secretary on such reports and their immediate return, to the White House or the Budget Bureau, as the case may be. Under the provisions of law applicable, there is only a limited time for the consideration of Enrolled Bills by the President. Therefore their handling is required to be given priority, by all concerned, over all other departmental business. All transmission of these Bills will be By Messenger.

The departmental reports on Enrolled Bills should indicate briefly the purpose and effect of the legislation, its financial aspects, where that seems appropriate; a statement indicating that it was introduced and passed at the request of the Department where that is appropriate; and any other information, briefly stated, which will be of value at that stage, ending finally with a recommendation for approval or disapproval of the Bill. Where disapproval of an Enrolled Bill is recommended by the Department a draft of a veto message for signature of the President is required to accompany the Department's report. In such circumstances the bureau concerned should work directly with the Solicitor's Office in the preparation of a veto message in due and proper form. In some cases instead of recommending the approval of an Enrolled Bill, the recommendation of the Department on Enrolled Bills may appropriately be to the effect that no objection is seen by the Department to the approval of the Bill.

H A Wallace

Secretary.

Appendix A to Department Memorandum No. 730

(Outline of Form to be used in Department of Agriculture
for obtaining Budget clearance)

(Use "Department of Agriculture" letterheads for both reports to Committees and clearance letters to Budget Bureau.)

Hon. D. W. Bell, Acting Director

Bureau of the Budget

Dear Mr. Bell:

Pursuant to the requirement of Budget Circular 336, there is transmitted herewith for clearance, draft of a proposed report (or recommendation, or request, etc.) from this Department to the Chairman of the House Committee on Agriculture (or other Congressional addressee), concerning:

H. R. ____. A Bill "To _____
_____ (Cite Title of Bill) _____

(Note: Then follow with such paragraphs as may be necessary to give the Budget Bureau an understanding of the situation. Where the matter, including fiscal aspects, is adequately covered by the report itself or where the legislation obviously and quite conclusively does not have any financial aspects, no further information is required for the Budget Bureau letter. Where the report may not contain sufficient information for the Budget Bureau or where the preparing bureau feels it is desirable to say something additional to the Budget Bureau additional paragraphs may then be included. In cases where bills have financial aspects not covered in the report it is essential to explain these for the information of the Budget Bureau. The Budget Bureau can not pass on bills without this information.)

By direction of the Secretary:

Budget Officer.

Enclosures:
2 copies of proposed report
Copy of H. R. (or S.) ____.

(Note: If Bills not available to the preparing bureau, the Office of Budget and Finance will attach these before the letter is signed.)

Carbon Copies Required

Of the letter to the Budget Bureau:

1 salmon carbon (used for initialing - retained in Secretary's File Room)
1 white carbon (retained in Secretary's File Room)
1 white carbon (to be returned by Secretary's File Room to the bureau, showing date original sent to the Budget Bureau)
2 white carbons (one to be sent by Secretary's File Room to the Secretary, Under Secretary, Assistant Secretary, and Coordinator of Land Use Planning, to note; and one to be sent to the Office of Budget and Finance, showing date original sent to the Budget Bureau)
Other carbons, if any, needed by the originating bureau.

Of the draft of proposed Report on Bill:

1 salmon carbon (used for initialing - retained in Secretary's File Room)
1 white carbon (retained in Secretary's File Room)
2 white carbons (to accompany the original to its final Congressional destination)
2 white carbons (for the Budget Bureau)
1 white carbon (to be returned by the Secretary's File Room to the originating bureau when report finally sent to Congress)
Other carbons, if any, needed by preparing bureau.

Enclosures

If there are Enclosures to a proposed Report, the following copies are required:

1 copy (retained in Secretary's File Room)
1 copy (for the Budget Bureau, except for Private Relief or other bills exempted from clearance)
2 copies (to accompany report to its final Congressional destination)

Exceptions may be made to the foregoing rule relating to enclosures in the case of bulky files, documents, etc., which it would be unreasonable to have copied.

7/28/37

1. ~~Solicitor~~

For initials or any ideas you may have!

2. Mr Appelbey

This is the memo I showed you in the rough some weeks ago. It will be useful as a handout, to answer many questions that are raised now, and I believe will save at least an average of from 6 to 7 days on the handling of bills; also present double handling in Atty's Office. You of course may have some further ideas on the subject.

WAJ

BUREAU OF THE BUDGET

WASHINGTON

FEB 9 1937

Mr. Jump

My dear Mr. Secretary:

I have your letter of February 3, 1937, with enclosed draft of a Department memorandum concerning the procedure to be observed in carrying out the provisions of Budget Circular No. 336.

I think this memorandum sets forth very well indeed the procedure which should be followed in such matters. The only suggestion that I would have relates to the wording of the last sentence in the next to the last paragraph of the memorandum, and is a minor suggestion which has been brought to the attention of your Budget Officer, Mr. Jump.

Very truly yours,

D. W. Bell

Acting Director.

The Honorable,

The Secretary of Agriculture.

February 3, 1937.

Hon. D. W. Bell, Acting Director

Bureau of the Budget

Dear Mr. Bell:

Under date of January 10, 1936, I wrote you at some length relative to a point of confusion which exists in this Department with respect to internal procedure under Budget Circular No. 336. At that time I enclosed a draft of a memorandum proposed to be issued in this Department dealing principally with the procedure to be observed, in carrying out Budget Circular 336, by members of this Department appearing before Congressional committees. Subsequently this matter was the subject of discussion between members of the staff of your office and the Budget Officer of this Department and the gist of our present understanding, arising out of the conversation referred to, has now been incorporated in a new draft of a memorandum, a copy of which is enclosed herewith. In the interest of orderly procedure it is very necessary to advise our employees on the particular points involved in this memorandum and therefore I shall appreciate an expression of your opinion as to whether this correctly sets forth the procedure to be observed and, of course, will appreciate any comments or suggestions which the Budget Bureau may have with respect to the present draft.

Sincerely,

(Signed)

H A Wallace

Secretary

Enclosure.

Return file to

February 3, 1937.

Hon. L. R. Bell, Acting Chairman

Bureau of the Budget

Dear Mr. Bell:

Under date of January 15, 1937, I wrote you at some length relating to a method of procedure which might be this Department with respect to Interior appropriations under Budget Circular No. 379. At that time I enclosed a draft of a memorandum proposed to be issued in this Department dealing principally with the procedure to be followed in carrying out budget Circular 379. In another of this important subject, before incorporated amendments. Accordingly this matter was the subject of discussion between members of the staff of your office and the Budget Officer of this Department and the plan of our present administration, relating and of the conversation referred to, has now been incorporated in a new draft of a memorandum, a copy of which is enclosed herewith. In the interest of orderly procedure it is very necessary to obtain our Department on the particular points involved in this memorandum and therefore I shall appreciate an expression of your opinion as to whether this correctly sets forth the procedure to be observed and, of course, will appreciate any comments or suggestions which the Budget Bureau may have with respect to the present draft.

Sincerely,

(Signed)

Secretary

Secretary's File Room

Circular No. 336

BUREAU OF THE BUDGET

WASHINGTON

December 21, 1935.

TO THE HEADS OF EXECUTIVE DEPARTMENTS, INDEPENDENT ESTABLISHMENTS AND OTHER GOVERNMENT AGENCIES, INCLUDING CORPORATIONS.

This Circular supersedes Budget Circular No. 49 of December 19, 1921, Budget Circular No. 273 of December 20, 1929, Budget Circular Letter of April 10, 1930, National Emergency Council Memorandum of December 13, 1934, and National Emergency Council Memorandum of April 23, 1935.

Estimates or Requests for Appropriations.

Section 206 of the Budget and Accounting Act, 1921, provides that:

> "No estimate or request for an appropriation and no request for an increase in an item of any such estimate or request, and no recommendation as to how the revenue needs of the Government should be met, shall be submitted to Congress or any committee thereof by any officer or employee of any department or establishment, unless at the request of either House of Congress."

Section 2 of said Act contains the following definition:

> "When used in this Act --
>
> "The terms 'department and establishment' and 'department or establishment' mean any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government, including the municipal government of the District of Columbia, but do not include the Legislative Branch of the Government or the Supreme Court of the United States;"

Reports and Recommendations on Proposed or Pending Legislation.

At a meeting of the National Emergency Council, December 17, 1935, the President directed that:

There shall be sent to the Bureau of the Budget, for consideration of the President before submission to the Congress, or any committee or member thereof, the original and two copies of each recommendation or report, concerning proposed or pending legislation (other than private relief legislation), requested from or advanced by any executive department, independent establishment, or other Government agency (including the municipal government of the District of Columbia and Government-owned or Government-controlled corporations), or any officer thereof. When such recommendation or report thereafter is submitted to the Congress, or to a committee or member thereof, it shall include a statement as to whether the proposed legislation is or is not in accord with the program of the President.

Before any person in his official capacity as officer or employee of any executive department, independent establishment, or other Government agency (including the municipal government of the District of Columbia and Government-owned or Government-controlled corporations) shall advocate or oppose legislation (other than private relief legislation) before any committee of the Congress, he shall ascertain from the Bureau of the Budget through the Budget officer of his organization whether such legislation is or is not in accord with the program of the President, and he shall so inform the committee.

The Procedure for carrying out the above directions will be as follows:

(a) Legislation solely concerning fiscal matters will be cleared by the Bureau of the Budget with the President. Thereafter, the submitting agency will be advised by the Bureau of the Budget whether such legislation is or is not in accord with the financial program of the President.

(b) Legislation solely concerning policy matters will be transmitted by the Bureau of the Budget to the office of the National Emergency Council, with such comment as the Bureau of the Budget desires to make. The office of the National Emergency Council will then clear the legislation with the President and advise the Bureau of the Budget of the President's action. Thereafter, the submitting agency will be advised by the Bureau of the Budget whether the legislation is or is not in accord with the policy program of the President.

(c) Legislation involving both fiscal and policy matters will be cleared jointly with the President by the Bureau of the Budget and the office of the National Emergency Council. Thereafter, the submitting agency will be advised by the Bureau of the Budget (1) whether the legislation is or is not in accord with the financial program of the President, and (2) whether the legislation is or is not in accord with the policy program of the President.

By direction of the President:

D. W. Bell,
Acting Director of the
Bureau of the Budget.

Insert B

SUPPLEMENT TO MEMORANDUM 683

Clearance of Legislative Recommendations

For the further information and guidance of officers and employees of the Department, when acting in their official capacity, the following procedure, supplementing that indicated in Memorandum No. 683, will be observed in complying with Budget Circular 336:

When members of the Department are requested by a Congressional Committee to appear before the Committee for the purpose of giving information with respect to pending or proposed legislation upon which the Department has not as yet obtained a clearance under Budget Circular 336, such witnesses, before giving their testimony should state to the Committee conducting the hearing that in the absence of a clearance under Budget Circular 336, their testimony should not be construed as reflecting either one way or the other the relationship of the proposal under consideration to the program of the President. In other words the witness should make clear that his testimony can not involve any commitment as to the program of the President until the matter is presented to the Budget Bureau for a formal clearance.

Departmental witnesses should notify the Office of the Secretary, where time permits, through bureau channels, of their intended appearance and, as required by Memorandum 683, following their appearance, should make a very brief report to the Secretary's Office, also through bureau channels, stating the gist of their testimony and such facts as may be appropriate, for departmental information. ~~In general,~~ Departmental representatives will not appear before Congressional Committees except upon request of the Committee, or by departmental authorization. In either event the provisions of Budget Circular 336 and of this Memorandum will apply.

Where members of the Department are called upon to render drafting assistance or similar expert technical services, in connection with pending or proposed legislation, not involving the expression of official views with respect to the desirability of such measures, the same procedure as indicated in the foregoing paragraphs should be observed.

Secretary.

DEPARTMENT OF AGRICULTURE

WASHINGTON

July 13, 1945

MEMORANDUM NO. 730, REVISED, SUPPLEMENT 1

Departmental Reports on Proposed Legislation

In replying to requests for reports on proposed legislation, the Department has an important opportunity to assist Congress in developing the basic legislative framework for agricultural programs. It is therefore our duty to prepare such reports carefully and to include in them all of the pertinent information which is available to us.

Probably because of a desire to provide Congress with the best reports possible, the executive departments have sometimes been slow in submitting their comments on proposed legislation. This delay greatly diminishes the assistance which departmental reports provide to Congress. In some instances the committees find it necessary to act upon urgent legislative proposals before receiving the requested comments of the departments. When such action becomes necessary, not only are the departments prevented from having their recommendations considered, but members of Congress may feel that the executive agencies are not responsive to their requests.

Although I realize a report on a bill may require more time for consideration than the average letter, this very difficulty should inspire us to handle legislative reports more promptly. I have therefore asked the Office of Budget and Finance to keep me advised currently of the status of such reports in order that I may be aware of any situations which may prevent their prompt submission. I shall appreciate it if each bureau and office will make a special effort to handle these reports with the greatest possible dispatch. It seems to me that, in general, a bureau should not need to take longer than one week in the preparation of a proposed report, and that a reviewing agency or office should take less than two days.

Let me pass on to you one further reaction I have to this matter. If a committee receives a lengthy report, there is danger that some major point will not stand out clearly. This makes it more difficult for the committees to consider our recommendations. I shall appreciate it, therefore, if the bureaus and offices will try to limit each report to two pages if the pertinent points can be so covered. If occasionally that is not feasible, I believe it would generally be desirable to prepare a detailed statement as an attachment to a short covering letter.

Clinton P. Anderson

Secretary

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF DIRECTOR OF PERSONNEL
WASHINGTON, D. C.

August 20, 1937.

MEMORANDUM FOR MR. APPLEBY.

Dear Paul:

Pursuant to your request, consideration was given to the preparation of a memorandum for the Secretary's signature, outlining the new patent procedure for the Department. On discussing the matter with Mr. Foss, who is a member of the committee appointed by the Assistant Secretary, I found that the copy of the committee's report, through inadvertance, did not express fully the conclusions which had been reached, including the tentative understanding that the draft for the new procedure would be prepared in the Office of the Solicitor. Mr. Foss readily consented to undertake the preparation of a memorandum embodying the new procedure agreed upon, and it is enclosed herewith for your consideration.

I have initialed this memorandum since it appears to embody all of the conclusions reached by the committee, including the suggestions made to you in my memorandum of May 7th. The length of this memorandum is apparently justified by the necessity for a complete exposition of the procedure desirable for employees who may have made, or contemplate making, inventions upon which patents may be secured.

Very truly yours,

W W Stoddard

Director of Personnel.

Enclosures.

UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF THE SOLICITOR

WASHINGTON, D. C.

MEMORANDUM FOR DR. STOCKBERGER

AUG 12 1937

Dear Dr. Stockberger:

In accordance with your informal request to Mr. Foss of this office, there is enclosed a suggested draft of a Secretary's memorandum prescribing the procedure to be followed in the presentation, consideration, and handling of patent applications covering inventions made by employees of the United States Department of Agriculture.

This memorandum is based upon a communication dated April 9, 1937, addressed to Assistant Secretary Brown by the Department Patent Committee, with elaborations based upon the recollections of Mr. Foss of the objectives sought to be accomplished by the Department committee, as expressed at the hearing attended by that committee and the Grievance Committee of Lodge No. 31, A. F. G. E.

In accordance with the informal conversation between you and Mr. Foss, I have placed no burden upon you in the suggested procedure, which, as you know, is a departure from the practice now existing.

I shall be glad to be of any further possible assistance in the premises.

Very truly yours,

Martin G. White

Solicitor.

Enclosure.

Gen. Sheridan:

Mr. Motley tells me he, Lee Strong & you agreed to one change in the original report. Will you now please have it prepared & put in process for adoption new regulation, memorandum or whatever is required?

P. H. C.

Miss Betz:

Mr. Appleby's office does not have this material.

Jiles

UNITED STATES DEPARTMENT OF AGRICULTURE

BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

WASHINGTON, D. C.

April 9 1937.

MEMORANDUM FOR ASSISTANT SECRETARY HARRY L. BROWN

Dear Mr. Brown:

This will acknowledge receipt of your memorandum of April 5 indicating that a Grievance Committee of Lodge No. 31 AFGE had approached the Secretary's Office relative to the rights of employees in the matter of applying for patents, and asking me to serve as Chairman of the Department Committee to arrive at some mutually satisfactory procedure in handling such matters. The other members of the Committee are: Dr. John R. Mohler, Chief, Bureau of Animal Industry, Mr. F. D. Richey, Chief, Bureau of Plant Industry, Dr. Henry G. Knight, Chief, Bureau of Chemistry and Soils, and Mr. Harry N. Foss of the Solicitor's Office. As an observer, Dr. Frederick C. Howe was requested to sit with the Committee.

On the evening of April 7, 1937, after official hours, the members of the above committee, with the exception of Doctor Mohler and Mr. Richey, who were absent from the city, met with the following members of the Grievance Committee of Lodge No. 31 AFGE: Mr. Louis Matosoff, Chairman, J. A. Schricker, Martin Leatherman, and L. N. Markwood. Mr. Matosoff submitted the following as a report of the Grievance Committee on the matter of patent applications:

"Report of the Committee on Patents (sub-committee of Grievance Committee)

"Upon investigation it has been discovered that the present procedure for obtaining employee patents is inadequate; and it is very evident that not only is employee morale impaired thereby but also that the Department of Agriculture and the government service as a whole suffers the loss of the fruits of the employes' inventions. It has further been submitted that the above-mentioned inadequacy involves a transgression of the rights of the employees to patents as set down in the Patent Act of 1928 and the Supreme Court ruling on a specific case.

"The administrative ruling in the Department provides for the submission of a patent claim to the Secretary for filing with the Solicitor's Office. Very often the following is really the case. First, the employee submits his brief to his Division Chief. There is apparently nothing to prevent the Division Chief

from holding it up for months before passing it on to the Bureau Chief. The Bureau Chief in turn may refer it back to the employee for discussion. This obstruction has at times taken the character of asking questions about the time and place of the development of the process in question, matters which obviously have nothing to do with the legal character of the patent. It finally goes to the Secretary's office and to the Solicitor's office where it is drawn up in legal form for execution. But before it is passed for notarization, it is often turned back to the Bureau Chief for scrutiny. This occasions more delay.

"The Committee has cases on record where the Division Chief or Bureau Chief has refused applications for patents, a right which they do not possess. Thishas even been done after the application has passed the Solicitor's office. In other cases the Division or Bureau has simply not acted on the application, thus causing irremediable delay. In effect, the Bureau and Divisions have at times acted as courts of final review on patent applications. This is not only an obstruction but an illegally assumed power. It should be pointed out that this refers not only to "commercial right" patents but also to "public service" patents.

"The committee has also discovered that it is understood in certain Divisions that no credit is given for patents which employees may from time to time obtain. This discourages the application for patents. In other Divisions there is the feeling that the obtainment of patents, especially when there are commercial rights attached, is partly looked on with disfavor. This also discourages the application for patents. Altogether the initiative and morale of the employees are impaired, often to the extent that employees seek other channels to patent their inventions and to obtain the legal commercial rights to the same.

"It has been pointed out that in addition to the infringement of the legally established rights of employees by Division and Bureau Chiefs delay is also caused in the Solicitor's Office. Insufficient personnel to handle cases (to our knowledge there is at present only one attorney available for patent briefs) is the cause. In one case on record a patent was returned and allowed to lapse, thus causing the inventor a loss of status in regard to this particular application. Obviously, this discourages the employee and encourages others outside of the government service to steal such patentable ideas. As in the above-mentioned cases, the possible loss to the government and to the employee is a severe one.

"In all cases where lengthy delay is caused or where the right to patent has been refused, the employee has no established right to appeal the decision (which is a questionable one to begin with) or even to receive cause for such unreasonable delay or refusal.

It is not necessary to restate that this is a procedure contrary to the law enacted by Congress and interpreted by the Supreme Court, and that it is an impairment of the rights of employees.

"To sum up the situation, it is our opinion that the procedure for handling patent applications in the Department of Agriculture is inadequate and subject to a great deal of abuse in the technical Divisions and Bureaus. The following points are cited as needing immediate adjustment:

1) The law is not clearly understood by those in charge, otherwise the Chiefs in question would not have assumed discretionary powers in deciding on the merits of the patent applications. The specific rights of the employees to obtain patents are not clearly recognized.

2) In assuming these more or less arbitrary rights, discrimination has occurred. The individual prejudices of those making the rulings or causing the delays often determine whether or not the employee will obtain his patent.

3) There has been entirely too much "red tape" applied. This is harmful to the applicant since the time element in obtaining patent recognition is often important as a protective measure against outside individuals and concerns who may adopt the patent as their own.

4) This delay often means that the government loses its "shop rights" to the invention.

5) The employee has no way of appealing his case or of insuring those rights which are legally his.

"The Committee has agreed on the following proposals to remedy the situation.

1) That an official memorandum be sent to and circulated among all Divisions and Bureaus concerned containing the following information:

a) A digest of the patent law in regard to government employees and an explanation of the Solicitor's Office interpretation of the same.

b) A definite procedure which all Bureaus and Divisions must follow in the transmittal of employee applications for patents.

(**)

2) That the procedure be as follows:

a) Submission of the patent description by the employee to his Division Chief. The Division Chief must pass it on to the Bureau Chief, regardless of his own recommendations, not later than one week after receipt of same.

b) The Bureau Chief must transmit said application, together with a job description of the

employee, to the Secretary's Office for filing with the Solicitor's Office. This must be done not later than one week after receipt, regardless of his own recommendations.

c) It shall not be returned from the Solicitor's Office for further scrutiny. The employee may have the application notarized immediately after it is drafted in the Solicitor's Office.

3) If application is properly refused, reasons for such refusal must be given the employee.

4) The right of the employee to appeal a proper decision shall be established.

(**) c) A statement to the effect that the Department of Agriculture expresses itself equally in favor of patents containing commercial rights for the employee as well as those which are purely public service patents.

"The committee feels that the above procedure will remedy the situation in regards to the obtainment of employee patents."

After a full discussion of the entire question the following points were agreed upon to be suggested for the Secretary's consideration in the matter of handling patent applications:

That an official memorandum be sent and circulated among the Bureaus and Divisions concerned containing

1 - An interpretation of the patent law in regard to Government employees and an explanation of the Solicitor's Office interpretation of the same.

2 - A definite procedure which the Bureaus and Divisions must follow in the transmittal of employees' applications for patents as follows:

(a) After applications for patents are submitted by the applicant they shall be handled in the Bureau with reasonable quickness and dispatch.

(b) The Bureau Chief must submit the application for patent with his recommendations to the Secretary for final legal interpretation. In the event of a difference of opinion, a full disclosure of all pertinent facts must be submitted. The final decision made by the legal authorities in the Department shall be transmitted back to the applicant and the Chief of the Bureau in case of a difference of opinion.

(c) If no request for reconsideration is received from the Chief of the Bureau or from the inventor-employee

within thirty days, the opinion on the legal aspects will become final, provided the acceptance of the opinion may be communicated to the Solicitor at any time within the thirty days.

Respectfully submitted,

John R. Mohler -(absent from city)

F. D. Richey -(absent from city)

Henry G. Knight

Harry N. Foss

Lee A. Strong, Chairman

DEPARTMENT OF AGRICULTURE

WASHINGTON, D.C.

Ordered

August 25, 1937.

Memorandum No. 731

PROCEDURE TO BE FOLLOWED IN THE PRESENTATION, CONSIDERATION, AND HANDLING OF PATENT APPLICATIONS COVERING INVENTIONS MADE BY EMPLOYEES OF THE UNITED STATES DEPARTMENT OF AGRICULTURE.

The Act of March 3, 1883, as amended by the Act of April 30, 1928, (45 Stat. 467, U. S. C. Title 35, Section 45), authorizes the Commissioner of Patents to grant to employees of the Government patents for inventions without the payment of any fee when the head of the Department concerned certifies that such inventions are used or liable to be used in the public interest, provided the inventors shall state in their patent applications that the inventions, if patented, may be manufactured and used by or for the Government for Governmental purposes without the payment to them of any royalty thereon.

From a consideration of the act cited above, it is obvious that Congress contemplated some patents under which the employees of the Government would retain all rights except those granted to the Government itself. The act cited has no effect on the ownership of an invention. The respective rights and obligations of employer and employee touching an invention conceived by the latter spring from the contract of employment. The Courts have said that one employed to make an invention who succeeds during his term of service, in accomplishing that task, is bound to assign to his employer any patent obtained. The reason is that he has only produced that which he was employed to invent. His invention is the precise subject of the contract of employment. A term of the agreement necessarily is that what he is paid to produce belongs to his paymaster. On the other hand, if the employment be general, albeit it covers a field of labor and effort in the performance of which the employee conceived the invention for which he obtained a patent, the contract is not so broadly construed as to require an assignment of the patent.

It will be observed from the above that the Courts have drawn a distinction between specific and general work assignments. If the making of a particular invention is within the specifically assigned duties of an employee of the Government, his invention will be dedicated to the public, or, in the event it is desirable for the Department to retain administrative control of an invention, assigned to the Secretary

of Agriculture. On the other hand, if the making of an invention lies outside the specifically assigned duties of an employee, the patent to be obtained should provide for the right of free use by or for the Government, and all other commercial rights may remain in the employee-inventor. The last two observations, of course, are based on the premise that the inventions involved are used or liable to be used in the public interest. In determining whether an invention is liable to be used in the public interest, it would seem preferable to consider the public interest as a whole, rather than to confine such consideration to the interest of the United States as associated strictly with a particular bureau or department of the Government.

Paragraph 1561 of the Regulations of the Department provides that

> "All inventions made by employees of this Department in any wise connected with the work of the Department, that is to say which involve subject matter within the scope of the Department's activities, are required to be submitted to the Secretary, who will determine what steps shall be taken in order that the interests of the Government and the employees concerned may be adequately protected."

This regulation also contains general information concerning the consideration of inventions made by employees of the Department.

In order that a uniform practice relating to the consideration and handling of inventions and patent applications to be presented pursuant to the regulation cited above may prevail throughout the Department, the following procedure is prescribed.

The employee-inventor, either on his own initiative or under instructions by a superior officer, shall prepare a detailed description of his invention together with an illustrative drawing, if the invention is susceptible to illustration in this manner. The purposes and operation of the invention should also be disclosed. This description will be submitted in writing to the chief of the bureau in which the inventor is employed through the immediate superior of the employee-inventor. The letter of transmittal will contain the full name and residence address of the inventor and make known his wishes concerning the disposal of the involved patent rights. If the inventor wishes to dedicate his invention to the public or assign it to the Secretary of Agriculture, he need only so state. If, however, he decides that under applicable law he is entitled to retain commercial rights, subject to a shop right in the

Government pursuant to the Act of 1928 above cited, he will so state and exercise his privilege of presenting a justification of his views. In this particular he should, of course, give a description of his work assignment as understood by him.

It is customary to restrict knowledge of an invention to those entitled to such knowledge prior to the filing of a patent application in the Patent Office. Only those who have contributed to the inventive act or acts should be named as inventors. It is imperative for inventors to keep a permanent record of events concerning their inventions and of the names of those to whom disclosures may have been made and the dates of such disclosures.

Upon receipt of the applications or requests from employee-inventors, the immediate superior shall forward the entire file, together with his recommendations, to the chief of the bureau with reasonable quickness and dispatch. Upon receipt of the file, the chief of the bureau shall give the matter consideration and shall forward the entire file, together with his recommendations based upon the existing facts and law as indicated above, to the Secretary of Agriculture with reasonable quickness and dispatch. In the event there is a difference of opinion between the chief of the bureau and the employee-inventor concerned, a justification of the position assumed by the chief of the bureau in the premises shall be submitted in writing.

Upon receipt of the matter in the office of the Secretary, the file will be forwarded to the Solicitor of the Department who, as legal advisor and representative of the Secretary, will determine the questions involved and, in the event of a difference of opinion between the chief of the bureau and the employee-inventor, render a written opinion in the matter, copies of which opinion shall be transmitted to the chief of the bureau and the employee-inventor. Reconsideration by the Solicitor may be obtained by a request therefor by the chief of the bureau or the employee-inventor submitted to the Solicitor within a period of thirty days from the date of such opinion. The opinion of the Solicitor shall become final upon failure of the parties concerned to submit such request for reconsideration, provided further, that acceptance of the opinion may be communicated to the Solicitor by the parties concerned at any time within the period of thirty days. Further reconsideration by the Solicitor of his opinion, other than as provided for above, shall rest in his discretion.

After the decision of the Solicitor shall have become final in a particular case, the necessary formal papers shall be prepared

and prosecuted before the Patent Office under his direction. Should it be necessary prior to the filing of the application in the Patent Office or during its prosecution to refer any matter connected therewith to the chief of the bureau or to the employee-inventor concerned, the requirements of the Solicitor shall be met with reasonable quickness and dispatch.

H A Wallace

Secretary.

DEPARTMENT OF AGRICULTURE

WASHINGTON, D.C.

September1, 1937.

MEMORANDUM NO. 732

Pursuant to the authority delegated to me in Executive Order No. 7530, dated December 31, 1936, as amended by Executive Order No. 7557 of February 19, 1937, and supplemented by Executive Order No. 7649 of June 29, 1937, it is hereby ordered as follows:

1. In view of the fact that the Administration established by me in the Department of Agriculture under the foregoing Executive Orders, as the "Resettlement Administration", is now carrying out a program which involves resettlement activities only as a minor part of its functions, the name of said Administration is hereby changed, effective September 1, 1937, to "Farm Security Administration." The Administrator of the Resettlement Administration shall continue to perform the same functions and be subject to the same limitations as have heretofore been prescribed, but shall, pursuant to the foregoing change, be hereafter known as the "Administrator of the Farm Security Administration."

2. In addition to the functions heretofore vested in it under said Executive Orders, the Administrator of said Administration shall further perform such of the functions vested in me under Titles I and II, and related sections of Title IV, of the Bankhead-Jones Farm Tenant Act, as may from time to time be hereafter prescribed.

H A Wallace

Secretary.

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON D. C.

Ordered No. 177 9/1/37

September 1, 1937.

MEMORANDUM NO. 733

This memorandum is issued in order to provide for an effective coordinated administration of the Land Conservation and Land Utilization Program to be administered under Title III and related sections of the Bankhead-Jones Farm Tenant Act, with adequate consideration of the relationship of that program to the work of the Department as a whole.

1. Effective September 1, 1937, administration of Title III of the Bankhead-Jones Farm Tenant Act, together with those sections of Title IV of that Act which relate to Title III, is hereby entrusted to the Chief of the Bureau of Agricultural Economics, subject to the supervision of the Secretary.

2. All the functions, personnel, property (other than balances of appropriated funds), equipment, files, documents, papers, and all contracts, options and other instruments, of the Resettlement Administration, relating to the Land Utilization Program heretofore administered by the Resettlement Administration (including the personnel, property, etc., of the office of the Director of the Land Utilization Division, the Land-Use Planning, Project Planning, Project Development, and Cartographic Sections of that Division, and the personnel, property, etc., of other Divisions, which relate to that program), shall be transferred to the Bureau of Agricultural Economics for administration as rapidly as may be administratively feasible. The Administrator of the Resettlement Administration and the Chief of the Bureau of Agricultural Economics shall agree upon an enumeration of the personnel, property, etc., of the Resettlement Administration, referred to in this paragraph, and upon a time schedule for the making of such transfers.

3. In the interest of proper coordination and effective administration during the time that the transfers provided for in paragraph numbered "2" of this memorandum are being effected, all authority pertaining to the land utilization program of the Resettlement Administration heretofore delegated by me to the Administrator of the Resettlement Administration, to the Assistant Administrator of that Administration in Charge of Land Utilization, or to its Regional Directors or their subordinates, shall continue to be exercised by them, subject to such controls as the Chief of the Bureau of

Agricultural Economics, as the personal representative of the Secretary of Agriculture, and the Administrator of the Resettlement Administration shall mutually agree upon. Balances of appropriated funds heretofore allocated to the Resettlement Administration, and funds to be subsequently allocated, for the purpose of completing its land utilization program shall hereafter be subject to expenditure on that program upon certification by the duly authorized officers of the Resettlement Administration, subject to the foregoing provision.

4. The Chief of the Bureau of Agricultural Economics is authorized to appoint an Assistant Chief of that Bureau for Land Utilization, and to assign to such Assistant Chief the supervision of such work under this memorandum, and of such other work of the Bureau as he may deem proper from time to time.

5. The formulation and administration of a program of land conservation and land utilization pursuant to Title III of the Bankhead-Jones Farm Tenant Act is a function which concerns most, if not all, of the bureaus and agencies of the Department of Agriculture. In order to assure the formulation and administration of that program with adequate consideration of the relationship of that program to the functions of all agencies in the Department, the Chief of the Bureau of Agricultural Economics will advise and consult with the Coordinator of Land Use Planning in the administration of the activities covered by this memorandum. Lands proposed for acquisition under this program shall be cleared with the Coordinator, before acquisition is undertaken, under such procedure as may be established by the Coordinator and the Chief of the Bureau of Agricultural Economics. The heads of all agencies of the Department who may wish to recommend action under this program in connection with the work of their agencies shall submit their proposals to the Coordinator, who shall endeavor, in cooperation with the Chief of the Bureau of Agricultural Economics, to give effect to such proposals, insofar as such action may be desirable.

6. The term "Resettlement Administration" as used in this memorandum refers to the agency in the Department of Agriculture so designated in the period prior to September 1, 1937, and which is now known as the Farm Security Administration.

It is the purpose of this memorandum to bring together in a single bureau the research, planning, service and administrative functions which relate to the formulation and development of a program of land conservation and land utilization, as that program is defined in section 31 under Title III of the Bankhead-Jones Farm Tenant Act. Heretofore there has been inadequate coordination of the

various types of economic planning which bear upon such a land program.

Title III of the Bankhead-Jones Farm Tenant Act directs the Secretary "to develop a program of land conservation and land utilization, including the retirement of lands which are submarginal or not primarily suitable for cultivation, in order thereby to correct maladjustments in land use, and thus assist in controlling soil erosion, reforestation, preserving natural resources, mitigating floods, preventing impairment of dams and reservoirs, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands, health, safety, and welfare". It will be obvious from this statement that the program to be administered under Title III will affect, to a significant extent, nearly all the major land use programs being administered by the Department. It is my hope that the coordination made possible by this memorandum, together with the cooperation between the Chief of the Bureau of Agricultural Economics and the Coordinator of Land Use Planning here provided for, will result in making this land program serve the needs of the Department as a whole. It is expected, also, that this will give to the Department a coordinated service in economic planning, in its relation to land use, not heretofore available.

So far as practicable, provision will be made under Title III for transferring lands acquired to the agencies that are to be charged with their permanent administration, before any of the needed development and improvement work is done. The agency that is to administer the land will then arrange for doing the necessary development work. Where some agency in the Department is particularly qualified to perform the type of development work needed an attempt will be made, through cooperative agreement, to use the facilities of such agency for the development work, whether or not such agency is to administer the lands permanently. A small development staff will be retained, however, in the Bureau of Agricultural Economics, to perform such development work as cannot be more conveniently performed by other agencies.

H A Wallace

Secretary.

Ordered No 184 9/4/37 10:20 (R)

MEMORANDUM NO. 734

September 4, 1937.

DELEGATING AUTHORITY TO THE ADMINISTRATOR OF THE PUERTO RICO RECONSTRUCTION ADMINISTRATION FOR THE ADMINISTRATION OF LOANS, RELIEF AND RURAL REHABILITATION IN PUERTO RICO

Pursuant to the authority delegated to me in Executive Order No. 7530, dated December 31, 1936, and Executive Order No. 7649, of June 29, 1937, I hereby authorize the Administrator of the Puerto Rico Reconstruction Administration, or such person as he may designate to represent him in Puerto Rico, to perform all of the powers and functions vested in me under said Executive Orders with respect to the expenditure of funds allocated by the President under the Emergency Relief Appropriation Act of 1937 to the Resettlement Administration, Department of Agriculture, for loans, relief and rural rehabilitation for needy persons in Puerto Rico.

H A Wallace

Secretary.

File

DEPARTMENT OF AGRICULTURE

WASHINGTON

Ordered 9/9/37

September 1, 1937.

MEMORANDUM NO. 735

Appointment of Assistant Director of Personnel

Effective September 1, Mr. P. L. Gladmon has been appointed Assistant Director of Personnel.

Mr. S. B. Herrell has been appointed Chief, Division of Appointments in the Office of Personnel, vice Mr. Gladmon.

H A Wallace

Secretary.

DEPARTMENT OF AGRICULTURE
WASHINGTON

Collected No 209 9/14/37

September 10, 1937.

MEMORANDUM NO. 736

PREPARATION OF THE MONTHLY CROP REPORTS OF THE DEPARTMENT OF AGRICULTURE

Section 14 under Secretary's Memorandum Number 580, dated May 8, 1928 is hereby amended to read as follows:

Sec. 14. Previous to the arrival of the Chairman, other member of the Board, and guard, with the sealed "Special A" envelopes, the Secretary, or acting secretary, of the Board, shall have caused all windows in the Board rooms to be sealed in such manner as to prevent communication between persons within the Board rooms and persons outside, and the officer in charge of the Department's branch telephone exchange shall have caused to be disconnected all telephones, buzzers, and similar means of communication from the Board rooms. Immediately after the entrance of the Chairman and other member of the Board into the Board rooms, with the sealed "Special A" envelopes, the guard shall lock all doors leading from the Board rooms, and remain on watch until the report is released. While on watch the guard shall not permit any oral communication between persons within the Board rooms and persons outside, and shall unlock the door only to permit:

(a) The entrance of:

(1) The Secretary, or Acting Secretary of Agriculture.

(2) The Chief or Assistant Chief of the Bureau.

(3) All employees of the Division, whose presence is required in the preparation of the report, and officials of the Bureau of the Census who cooperate in issuing the joint cotton ginning and production report, having written permission from the Chairman.

(4) Other officials and employees of the Department of Agriculture having written authority from the Secretary or Acting Secretary of Agriculture or from the Chief or Acting Chief of the Bureau.

(b) (1) The delivery of mail, telegrams, written communications or supplies for the use of the Board.

(c) The departure of:

(1) The Secretary or Acting Secretary of Agriculture, the Chairman and such other persons as may be

(c) (1) continued

designated at the time by the Chairman for the purpose of proceeding, under guard, to the room provided for the publication of the report.

(2) Any person in the case of extreme emergency, in which event a member of the guard shall accompany and remain with such person until the publication of the report.

(3) All persons in case of fire.

Under the foregoing amendment, no persons shall be admitted to the Board rooms while the Board is in session other than employees and officers of the Department of Agriculture and officials of the Census Bureau who are admitted in order to issue the joint cotton ginning and production report. Section 15 is therefore revoked.

H A Wallace

Secretary.

UNITED STATES DEPARTMENT OF AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

WASHINGTON, D. C.

August 25, 1937.

MEMORANDUM TO THE SECRETARY

Dear Mr. Secretary:

I am submitting herewith a proposed amendment to the Secretary's order Number 580 which limits to some extent the people who may be permitted to have access to the rooms of the Crop Reporting Board while the Board is in session.

Recently it has been indicated to us that certain members of Congress will ask for permission to sit with the Board. Under the order as it now stands, the determination of whether or not they should be admitted is left very largely with the Chairman of the Board, and people outside of the Department may be admitted. Under the proposed amendment, only officers and employees of the Department and Census Bureau officials who are admitted in order to issue the joint cotton ginning and production report could be admitted. All other outside people would be excluded.

Very truly yours,

A. G. Black,
Chief of Bureau.

Enclosure

UNITED STATES DEPARTMENT OF AGRICULTURE

Office of the Secretary

Washington, D. C.

September 15, 1937

MEMORANDUM NO. 737

(Amendment to Memorandum No. 710)

Farm Security Administration

Pursuant to the authority delegated to me in Executive Order No. 7530, dated December 31, 1936, Dr. Will W. Alexander, as Administrator of the Resettlement Administration of the Department of Agriculture, and, in the event of his absence, Mr. C. B. Baldwin, as Deputy Administrator, are hereby authorized to perform on my behalf the following power and function, in addition to those authorized by Memorandum No. 710, dated February 2, 1937:

> To approve the making of loans to individuals in amounts not in excess of $10,000 for any one individual; in connection therewith to execute necessary legal instruments, to prescribe the requisite security and the terms and conditions upon which the loans will be made, and to perform such functions in connection with such loans as are specified in Administration Order 41 (Revision 1), paragraph 7b.

H A Wallace

Secretary.

Files

Ordered No 254 9/27/37

UNITED STATES DEPARTMENT OF AGRICULTURE

Office of the Secretary

Washington, D. C.

September ~~August~~ 15, 1937

MEMORANDUM NO.

(Amendment to Memorandum No. 710)

Farm Security ~~Resettlement~~ Administration

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H A Wallace

Secretary.

DUPLICATE ORIGINAL

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
Washington, D. C.

Ordered No 266 Oct 1, 1937

September 30, 1937

MEMORANDUM NO. 738

APPOINTMENT OF THE BOARD OF DIRECTORS OF THE FARMERS' HOME CORPORATION AND DELEGATION OF AUTHORITIES TO THE ADMINISTRATOR OF THE FARM SECURITY ADMINISTRATION.

Pursuant to the powers vested in me by the Bankhead-Jones Farm Tenant Act, it is hereby ordered as follows:

1. Harry L. Brown, now Assistant Secretary of Agriculture; A. G. Black, now Chief of the Bureau of Agricultural Economics; and Will W. Alexander, now Administrator of the Farm Security Administration, are hereby appointed as the Board of Directors of the Farmers' Home Corporation created by Section 40 (a) of said Act. The Board of Directors of the Farmers' Home Corporation shall act as general adviser to the Secretary and to the Administrator of the Farm Security Administration on general policies relating to Titles I and II of said Act, and shall further advise the Secretary with respect to the coordination of the program authorized by said Titles I and II with the general work of the Department. The Corporation shall exercise such further powers and functions as may from time to time be assigned to it by my further order.

2. The administration of Title I of the Bankhead-Jones Farm Tenant Act and related provisions of Title IV of that Act, is hereby entrusted to the Administrator of the Farm Security Administration, subject to the supervision of the Secretary.

3. In administering the provisions of Title I of the Act, the Administrator shall utilize personnel, property, and equipment of the Farm Security Administration and the technical assistance of the various bureaus of the Department and the Land Grant Colleges, including their experiment stations and extension services. Within the limits of available resources the various bureaus and divisions of the Department shall make available to the Administrator such information and advice as may be helpful in carrying out the program.

4. The Administrator shall issue from time to time such procedural orders and instructions, not inconsistent with the regulations and requirements of the Department of Agriculture, as may be necessary in the administration of the program authorized by said Title I. The county committees shall be governed by the procedure and forms provided for in such orders and instructions.

5. The Administrator may delegate to any person within the Farm Security Administration the functions hereby vested in him, except determinations of general policy and the issuance of procedural orders and instructions of general application, and the power to compromise claims in accordance with Section 41 (g) of said Act.

H A Wallace

Secretary.

Files

Chleis

Ordered No 269 12/26/39 (12)

DEPARTMENT OF AGRICULTURE
WASHINGTON

December 18, 1939

MEMORANDUM NO. 738, Supl. 1

The Board of Directors of the Farmers' Home Corporation, established by Secretary's Memorandum No. 738, September 30, 1937, is modified as follows:

Will W. Alexander, Administrator of the Farm Security Administration, will serve as Chairman.

R. M. Evans, Administrator of the Agricultural Adjustment Administration, is appointed to the vacancy on the Board created by the resignation of Harry L. Brown, Assistant Secretary of Agriculture.

A. G. Black, who has been appointed Governor of the Farm Credit Administration, is relieved of his duties as a member of the Board, and Milo Perkins, President of the Federal Surplus Commodities Corporation, is hereby appointed.

H A Wallace

Secretary

DEPARTMENT OF AGRICULTURE
WASHINGTON

February 8, 1941.

Memorandum No. 738, Supplement No. 2

Board of Directors
of the
Farmers' Home Corporation

The Board of Directors of the Farmers' Home Corporation, established by Secretary's Memorandum No. 738, September 30, 1937, and modified by Secretary's Memorandum No. 738, Supplement No. 1, December 18, 1939, is further modified as follows:

C. B. Baldwin, Administrator of the Farm Security Administration, will serve as Chairman vice Will W. Alexander, resigned.

Milo Perkins, Director, has become Administrator of the Surplus Marketing Administration since Secretary's Memorandum No. 738 was issued.

R. M. Evans, Administrator of the Agricultural Adjustment Administration, will continue to serve as the third member of the Board.

Claude R. Wickard

Secretary

DEPARTMENT OF AGRICULTURE

WASHINGTON

Ordered No 295 10/9/37

October 8, 1937.

MEMORANDUM NO. 739

Hours of Duty

In accordance with the decision of the Acting Comptroller General of the United States, dated August 28, 1937 (A-88481), the requirements of Paragraph 2211 of the Regulations of the Department are hereby waived to permit the assignment of the following hours of duty for two employees of the Bureau of Public Roads who are rendering service in connection with a cooperative agreement with the Highway Department of the State of Michigan:

8 A.M. to 12 Noon and 1 P.M. to 5 P.M., Monday to Friday, inclusive, except on legal holidays.

For leave purposes absence on Monday to Thursday, inclusive, shall be charged as one day and one hour for each day absent. Absence on Friday shall be charged as one day. Absence on Saturday, due to annual leave, sick leave, or leave without pay shall be charged in accordance with the regulations now applicable to Sunday.

The decision of the Acting Comptroller General covering the legality of the salary payments to be made under the proposed waiver was based on a demonstration by the Department that the employees in question were unable to conform to the regulations of the Department governing the hours of duty because of the closing on Saturday of the State-controlled building in which the cooperative activities are conducted. The exception granted for the two employees (or their successors) is restricted to the period during which the above described conditions are continued.

H A Wallace

Secretary.

COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON

A-88481

August 28, 1937.

The Honorable,

The Secretary of Agriculture.

Mr. Fuchs

Mr. Jump

Sir:

Your letter of August 18, 1937, is as follows:

"The question has arisen as to whether this Department would be empowered under existing law to authorize field employees to regulate their office hours so as to work eight hours a day from Monday through Friday, and to close the office on Saturday, under the following set of circumstances:

"The Bureau of Public Roads has entered into a cooperative agreement with the Highway Department of the State of Michigan, under the terms of which two employees of the Department - an administrative officer and a stenographer - have been assigned to work in cooperation with certain road officials of the State. The office occupied by the two employees of the Department is in the building that houses the State Highway Planning Offices. The office hours of the State Highway Department employees are from 8:00 a.m. to 5:00 p.m., from Monday to Friday, inclusive. The State offices in the building are closed on Saturday and, inasmuch as the entire building is occupied by the State Highway Department, this means that the building itself is officially closed on Saturdays.

"Our officer, however, has a pass key which he could use to gain access to the building on Saturdays, but when he enters the building he must lock the door behind him. Furthermore, he has reported that inasmuch as his work, and virtually all of that of his stenographer, is done in cooperation with State employees, the absence of such employees from the building on Saturday would make it difficult for our employees to perform any useful work. He reports also that because of the fact that certain individuals made unauthorized use of the building in question on Saturday, the State Highway Commissioner ordered the building to be closed to all persons, including employees, except during office hours. 'This order still stands,' he states, 'and I am sure that the State Department desires it to stand without exception. To be sure, approval of keeping this office open would probably be granted as a

matter of inter-governmental courtesy, but it would make us partly responsible for the welfare of records here. This responsibility I would not care to assume alone.'

"In view of the foregoing, our officer has recommended that the hours of work for the two employees concerned 'be established as 8 AM to 12 M and 1 PM to 5 PM Monday to Friday, inclusive, excepting legal holidays; and that for leave purposes, Monday to Thursday, inclusive, be considered as one day - one hour, and Friday as one day.'

"In presenting this set of facts to you we invite your attention to a decision of June 4, 1936 (A-75744), to the Administrator, Works Progress Administration, in which you hold that section 5 of the act of May 3, 1893, as amended by section 7 of the act of March 15, 1898, (30 Stat. 316), 'requires work on six days per week, except when one of the six days is a holiday declared by law or Executive Order and is applicable to all administrative employees in the departmental service in the District of Columbia.' (Underscoring supplied.)

"The force and effect of this language is that you, and we believe properly, construe this act to pertain only to Federal employees in the executive departments and independent agencies in Washington, D. C., and that it does not include field employees within its scope. In the last paragraph of the same decision you make the following statement:

> "* * * nor does there appear such a relationship between the work of the administrative force in Washington and the work of the employees and security wage workers in the field as to require suspension of work in the District of Columbia on Saturday or any other day of the week that the field force does not work.'

This statement indicates by implication that you regard a five-day week in the field service as being within the law.

"Also, in an opinion of July 3, 1937 (A-86898), to this Department, you indicated that the promulgation of departmental regulations permitting the staggering of hours of employees outside the District of Columbia engaged principally in office, station, or laboratory work, where the public interest requires service every day in the year, is an administrative action which your office is without authority to review 'other than to determine in the audit of accounts that the regulations adopted by the head of the department or establishment do not cause an unlawful expenditure of public monies.'

"We wonder whether this decision would contribute any justification to a similar administrative determination that the office hours of such field employees as are herein concerned might be staggered so as to

relieve them from duty on Saturdays and only require them to work five of the remaining days of the week, providing, of course, that the public interest and not the personal convenience of the employees was paramount in making the change.

"The statute that casts doubt upon the right of this Department to prescribe a five work-day week for employees in similar circumstances to those above mentioned is the Saturday half-holiday law. This statute enacted March 3, 1931 (46 Stat. 1482), provides:

"'That on and after the effective date of this Act four hours, exclusive of time for luncheon, shall constitute a day's work on Saturdays throughout the year, with pay or earnings for the day the same as on other days when full time is worked, for all civil employees of the Federal Government and the District of Columbia, exclusive of employees of the Postal Service, employees of the Panama Canal on the Isthmus, and employees of the Interior Department in the field, whether on the hourly, per diem, per annum, piecework, or other basis: Provided, That in all cases where for special public reasons, to be determined by the head of the department or establishment having supervision or control of such employees, the services of such employees cannot be spared, such employees shall be entitled to an equal shortening of the workday on some other day: Provided further, That the provisions of this Act shall not deprive employees of any leave or holidays with pay to which they may now be entitled under existing laws.'

"A strong inference may be drawn from this act that Congress did not intend field employees or employees in the District of Columbia to be relieved from working on Saturdays, except for the half day. The antithesis of this argument is that the act was designed not necessarily to require employees to work on Saturday, but to permit them to take a half holiday on Saturdays to which they were not entitled under previously existing law, if they were otherwise required to work on that day.

"In the light of the foregoing, and other statutes and decisions which you may find applicable, we should appreciate your advice as to the legality of authorizing field employees, at least under such special circumstances as are mentioned above, to regulate their office hours so as to work eight hours a day from Monday through Friday, and to close the office on Saturday.

Section 5 of the act of May 3, 1893, as amended by section 7 of the act of March 15, 1898, 30 Stat. 316, requiring "not less than

seven hours of labor each day, except Sundays and days declared public holidays by law or Executive order", which was held in decision of June 4, 1936, 15 Comp. Gen. 1056, 1058, cited by you, to require "work on six days per week, except when one of the six days is a holiday declared by law or Executive Order", is not applicable to employees in the field service. Other than the 8-hour law, as amended by the act of March 3, 1913, 37 Stat. 726, prohibiting the employment of mechanics, laborers, and those in similar occupations for more than 8 hours on any one calendar day, except in case of extraordinary emergency, there is no statute fixing either a minimum or maximum number of hours work required of field employees per day or per week. It is understood the 8-hour law is not here involved.

Accordingly, if administratively determined to be necessary in the present instance, this office would not be required to object to the establishment of a 5-day week tour of duty for the cooperative employees in question.

Respectfully,

R. N. Elliott

Acting Comptroller General
of the United States.

U. S. DEPARTMENT OF AGRICULTURE
OFFICE OF BUDGET AND FINANCE
WASHINGTON, D. C.

Mr Fuchs 8/30 193

Mr Jump: Phone WJ

A decision of far-reaching effect. See bottom of page 3 and all of page 4.

Should we circulate with B & F circular?

Or is this a matter for Dr. Stoktergar's office to circulate?

WBJ

(Gave duplicate copy to Mr. E. E. Hall of BPR 9/1/37 in accordance with Mr. Jump's instructions)

U. S. DEPARTMENT OF AGRICULTURE
OFFICE OF BUDGET AND FINANCE
WASHINGTON, D. C.

9/4 1937

Mr. Nelson:

Mr. Jump asked me to hold this pending your return. Should not be broadcast to bureaus, he thinks, but Regulations may have to be modified after the committee on hours of work (of which you are a member) gives the division consideration.

MRJ

Office of Personnel should get into the discussion.

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON

Order No 419 11/22/37

November 22, 1937.

MEMORANDUM NO. 740

(Amendment to Memorandum No. 712)

In accord with recommendation from Dr. Mohler, Chairman of the department Poultry Committee established in Memorandum No. 712, dated March 2, 1937, I am naming Dr. F. C. Bishopp of the Bureau of Entomology and Plant Quarantine to serve as an additional member of that Committee.

H A Wallace

Secretary

UNITED STATES DEPARTMENT OF AGRICULTURE
BUREAU OF ANIMAL INDUSTRY
WASHINGTON, D. C.

ADDRESS REPLY TO
"CHIEF OF BUREAU OF ANIMAL INDUSTRY"
AND REFER TO
A-1.093

November 18, 1937.

Memorandum to the Secretary.

Dear Mr. Secretary:

Referring to your Memorandum No. 712 of March 2, 1937, naming the personnel of the Department Poultry Committee, I would suggest the addition of Dr. F. C. Bishopp of the Bureau of Entomology and Plant Quarantine as that Bureau is doing work on poultry and I believe that organization should be represented.

Very truly yours,

J. R. Mohler,
Chief of Bureau.

DEPARTMENT OF AGRICULTURE
WASHINGTON

Ordered 8054 12/7/37 (R)

December 7, 1937.

FILED
DEC-8

MEMORANDUM NO. 741

Purchase of Essential Commodities

The following is quoted from a recent communication received from the President:

> "From various industries information has been received indicating that the Government can cooperate with industry by anticipating its needs in all commodities.
>
> "It is desired that, within the limits of funds available, each Executive Department or Agency purchase now as much of its needs as may be possible of all essential commodities that will be required during the remainder of the current fiscal year."

In order to cooperate effectively in carrying out the program outlined by the President responsible supervisory officials are directed to initiate immediately inquiries or studies designed to develop supply, material and equipment needs during the balance of this fiscal year and to inaugurate such procurement programs as the controlling circumstances will permit. Particular attention should be directed to possible requirements for heavy equipment, laboratory apparatus and devices, and structural materials. However, the need for less complex equipment and common supplies should not be overlooked.

Special attention is directed to the fact that the advancing of the purchasing program for this fiscal year does not in any sense constitute a relaxation of the requirement for the most careful control of all items of expenditure. However, assurance has been obtained from the Bureau of the Budget that favorable consideration will be given requests for the adjustment of apportionments which may be necessary to carry out the program of the President. The adjustment for this purpose will, of course, be restricted to increases in the amounts apportioned for the immediately ensuing months and a corresponding reduction in the schedule for the latter months of the fiscal year.

Chiefs of bureaus are requested to report to this office on or before January 3, 1938, as to purchasing programs already effectuated or in process of development. These reports should include general statements covering the classes of items involved and the actual or estimated expenditures concerned.

H A Wallace

Secretary.

Mr. Evans
Secretary's Office.

From a strictly administrative standpoint this perhaps should be in the form of a memo. for chiefs of bureaus. However, I have prepared as numbered memo. because larger distribution (1,000 copies) provides opportunity to bring exact text of Presidents' letter and of restrictions incorporated in memo. to considerable portion of Dept's personnel without the necessity for reproduction or perhaps interpretation by each of the bureaus. Presidents' action seemingly represents Fed. Gov't policy and as such justifies cutting across normal administrative lines.

NCW 12/6/37

)

11/30/37

Mr Nelson

Will you take charge of this. I think probably a memo from Secy to all bureaus, quoting the President, & requesting our full cooperation, would be a good thing to do, & then some means of measuring results

THE WHITE HOUSE

WASHINGTON

November 27, 1937

MEMORANDUM FOR THE HEADS OF THE EXECUTIVE DEPARTMENTS AND AGENCIES OF THE GOVERNMENT:

From various industries information has been received indicating that the Government can cooperate with industry by anticipating its needs in all commodities.

It is desired that, within the limits of funds available, each Executive Department or Agency purchase now as much of its needs as may be possible of all essential commodities that will be required during the remainder of the current fiscal year.

FRANKLIN D. ROOSEVELT

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON

Ordered 50465 12/11/37

December 10, 1937

MEMORANDUM NO. 742

FILED

Because of the congressional consideration being given to a proposal that would prohibit the importation of live stock, including dairy products, unless such products have been produced from cattle which are free from bovine tuberculosis, and another with similar purpose providing for the establishment of a system of issuing certificates permitting importation of such products "from cattle accredited free from bovine tuberculosis," I should like to appoint a departmental committee to make recommendations.

Will the following please organize existing data bearing on this matter, drawing therefrom conclusions which represent all points of view and stand ready on a moment's notice to present these conclusions whenever requested:

Dr. A. G. Black, Chairman
Mr. L. A. Wheeler
Mr. J. W. Tapp
Mr. E. W. Gaumnitz
Dr. J. R. Mohler
Mr. O. E. Reed

H A Wallace

Secretary

UNITED STATES
DEPARTMENT OF AGRICULTURE
OFFICE OF THE UNDER SECRETARY
WASHINGTON, D. C.

December 4, 1937.

Memorandum to the Secretary.

Dear Mr, Secretary:

Recently when you were out of the city I received a request from Congressman Marvin Jones for a report from the Department on two Sections proposed for inclusion in the pending agricultural adjustment legislation -- one prohibiting the importation of live stock, including dairy products, into the United States unless such products have been produced from cattle which are free from bovine tuberculosis, and the second providing for the establishment of a system of issuing certificates permitting the importation of such products from cattle accredited free from bovine tuberculosis. It appears that the Department of State received a similar request from Congressman Jones.

In consultation with Secretary Hull it was arranged for Mr. L. A. Wheeler of this Department and Mr. Edminster from the Department of State to appear before the House Agricultural Committee to present the point of view that such legislation should be handled separately from the general farm legislation. You will recall that in answer to an earlier request from Congressman Jones for a report on similar proposals, the Department answered in a letter of September 20 that "it would appear that economic protection, instead of sanitary or health protection, is the real objective of the comprehensive control over imports of dairy products proposed in the draft bill enclosed with your letter. While this Department is strongly in favor of sanitary embargoes and restrictions on imports when such restrictions and embargoes have a sound scientific basis, we are not in favor of the use of such measures as a substitute for economic protection."

Congressman Jones' most recent request came on the spur of the moment and it was necessary to act very quickly in order to present to the House Committee the Department's view with respect to this type of proposal. Under these circumstances I wonder if it would not be advisable for you to set up a temporary departmental committee to organize the existing data bearing on this matter, drawing therefrom conclusions which represent all points of view, and to stand ready on a moment's notice to present these conclusions whenever

requested. For membership on such a committee I propose the following: Dr. A. G. Black, Chairman, L. A. Wheeler, J. W. Tapp, E. W. Gaumnitz, and O. E. Reed. I recommend that you set up such a committee with this membership.

Sincerely yours,

M. L. Wilson

Under Secretary.

UNITED STATES DEPARTMENT OF AGRICULTURE
BUREAU OF AGRICULTURAL ECONOMICS
WASHINGTON

OFFICE OF THE CHIEF

November 29, 1937.

MEMORANDUM FOR UNDER SECRETARY WILSON

Dear Mr. Wilson:

I have your memorandum of November 26 and agree with you that it would be advisable to appoint a Department committee, and I am willing to serve as Chairman.

I believe you should consider for membership on such a committee:

Leslie A. Wheeler
Jesse W. Tapp
E. W. Gaumnitz
O. E. Reed.

Sincerely yours,

A. G. Black,
Chief of Bureau.

UNITED STATES DEPARTMENT OF AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

WASHINGTON, D. C.

November 24, 1937.

MEMORANDUM FOR THE UNDER SECRETARY.
(Through Dr. A. G. Black)

Dear Mr. Wilson:

In accordance with your request, I attended the meeting of the House Committee on Agriculture this morning, Dr. Edminster was there from the Department of State and read a letter which had just been signed by Secretary Hull, the essential point in which was a suggestion that such legislation, which would have widespread repercussions, should be handled separately from the general farm legislation.

I read the informal letter of November 23 to Mr. Jones, emphasizing its informal character and then summarized one or two points brought out in the letter of September 20. I was asked one or two questions in regard to present procedure on inspection of livestock products and stated that I was not in a position to describe the procedure definitely since it was under the jurisdiction of the Bureau of Animal Industry.

So far as I could judge from the questions asked of me and of Dr. Edminster, there was a definite division of opinion in the Committee. I think that probably as many people asked questions who were unfavorable to the legislation as were favorable to it.

I am attaching the material which you handed me this morning.

Sincerely yours,

L. A. Wheeler,
In Charge,
Foreign Agricultural Service Division.

Enclosures.

November 23, 1937

Honorable Marvin Jones

U. S. House of Representatives

Dear Mr. Jones:

It is impossible to give you off hand an official statement on the Sections submitted over the telephone dealing with imports of dairy and cattle products. The official statement would have to be cleared by the Budget and approved by the Secretary.

We think, however, that the position taken in our letter to you of September 20, 1937, applies to the proposed Sections. However, these proposed Sections are considerably more far reaching than those upon which we gave you an adverse report on September 20, 1937. If legislation as far reaching as that proposed in these Sections is to be considered by Congress, it is suggested that such legislation should be considered separately on its own merits rather than as a part of the general Farm Bill.

Sincerely yours,
(Signed)
M. L. Wilson
Under Secretary.

November 22, 1937

Honorable Marvin Jones

H. R. House of Representatives

Dear Mr. Jones:

It is impossible to give you any hand or official statement as the Nations which are the Islands dealing with tariff and public products. The official statement would have to be cleared by the Navy and approved by the Secretary.

My view, however, that the position taken in our letter to you of September 20, 1937, applies to the proposed Amendment. However, these proposed Sections are unfortunately more for reasons that those upon which we rely as shown report on September 20, 1937. If legislation is for reasons as that proposed in these Sections it is to be considered by Congress, it is suggested that such legislation should be substituted separately on his own merits rather than as a part of the general Jones Bill.

Sincerely yours,

(Signed)

M. S. Gilbert

Under Secretary.

Section I. That on and after six months from the passage of this Act the importation of livestock products (including dairy products) into the United States is prohibited unless such products have been produced from cattle which are free from bovine tuberculosis.

Section II. The Secretary of Agriculture shall provide for the issuance of certificates under which the importation into the United States of livestock products (including dairy products) which are produced, processed, or manufactured, from cattle accredited free from bovine tuberculosis shall be permitted. Where it is not practical for the employees of the United States to inspect herds of cattle in foreign countries from which such livestock products (including dairy products) are produced, the Secretary of Agriculture may issue certificates when the official diplomatic representative of any foreign country submits satisfactory proof to the Secretary that the livestock products (including dairy products) to be shipped into the United States are produced from cattle which are free from bovine tuberculosis, and then only from the foreign countries where the system of accrediting and testing cattle for bovine tuberculosis is equivalent to the officially recognized systems used in the United States.

files

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON

Ordered No 484 12/17/37 (R)

December 17, 1937

MEMORANDUM NO. 743

Supplementing my memorandum of December 10, I am naming Dr. W. G. Campbell, Chief of the Food and Drug Administration, as an additional member of the committee set up for the purpose of keeping abreast of congressional proposals which would affect the importation of live stock and live stock products.

H A Wallace

Secretary

UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

WASHINGTON

December 17, 1937

MEMORANDUM NO. 7[illegible]

Sub-Committee by memorandum of December 13, I am naming Dr. W. G. Campbell, Chief of the Food and Drug Administration, as an additional member of the committee set up for the purpose of keeping abreast of congressional proposals which would affect the importation of live stock and live stock products.

Secretary

UNITED STATES
DEPARTMENT OF AGRICULTURE
OFFICE OF THE UNDER SECRETARY
WASHINGTON, D. C.

December 16, 1937.

Memorandum to the Secretary.

Dear Mr. Secretary:

On December 4 I forwarded to you a memorandum on the setting up of a Department committee for the purpose of keeping abreast of Congressional proposals which would affect the importation of livestock and livestock products.

In recommending the membership for this committee I neglected to include Dr. W. G. Campbell of the Food and Drug Administration. I am convinced that his inclusion is necessary to a full and complete survey of the situation. Accordingly, I recommend that he be added to the committee.

Sincerely yours,

M L Wilson

Under Secretary.

UNITED STATES
DEPARTMENT OF AGRICULTURE
OFFICE OF THE UNDER SECRETARY
WASHINGTON, D. C.

December 16, 1937.

Memorandum to the Secretary.

Dear Mr. Secretary:

On December 4 I forwarded to you a memorandum on the setting up of a Department committee for the purpose of keeping abreast of Congressional proposals which would affect the importation of livestock and livestock products.

In recommending the membership for this committee I neglected to include Dr. W. G. Campbell of the Food and Drug Administration. I am convinced that his inclusion is necessary to a full and complete survey of the situation. Accordingly, I recommend that he be added to the committee.

Sincerely yours,

W. Ira Myers

Under Secretary.